

# Public Document Pack



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19 May 2021

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held in the Council Chamber at these Offices on Thursday 27 May 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](mailto:democraticservices@dover.gov.uk).

Yours sincerely

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

Chief Executive

## Planning Committee Membership:

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**

To confirm the minutes of the meeting of the Committee held on 22 April 2021 (to follow).

## **ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING**

5 **APPLICATION NO DOV/20/00419 - ALMOND HOUSE, BETTESHANGER SUSTAINABLE PARKS, SANDWICH ROAD, SHOLDEN** (Pages 5-117)

**Outline application with all matters reserved for up to 210 dwellings including up to 12 self-build plots, together with up to 2,500 sqm of office (Use Class B1) floorspace and up to 150 sqm of retail (Class E) floorspace**

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

6 **APPLICATION NO DOV/20/00640 - WHITFIELD URBAN EXTENSION PHASE 1C, ARCHERS COURT ROAD, WHITFIELD** (Pages 118 -142)

**Reserved matters application pursuant to DOV/10/01010 - relating to layout, scale, landscaping, internal access arrangements and appearance for 185 dwellings (Phase 1c) (amended plans and description)**

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

7 **APPLICATION NO DOV/20/00519 - FARM COTTAGE, CHERRY LANE, GREAT MONGEHAM** (Pages 143-148)

**Erection of a detached annexe for ancillary use for gym/hobby room (existing outbuilding to be demolished)**

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

8 **APPLICATION NO DOV/21/00227 - NORTON TIMBER, LONG LANE, SHEPHERDSWELL** (Pages 149-163)

**Erection of a detached dwelling with associated parking and new vehicular access**

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

9 **APPLICATION NO DOV/20/01542 - 31 BEWSBURY CRESCENT, WHITFIELD** (Pages 164-179)

**Erection of a detached dwelling with creation of a vehicular access and associated parking. Erection of a first-floor extension, garage and roof extension to existing dwelling incorporating 4 dormer windows and alterations to doors and windows (existing garage, side elevation, sheds and greenhouse to be demolished)**

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

## **ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING**

### **10 APPEALS AND INFORMAL HEARINGS**

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

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

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

#### **Access to Meetings and Information**

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website [www.dover.gov.uk](http://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, [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk), telephone: (01304) 872303 or email: [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk) for details.

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

**Declarations of Interest**

Disclosable Pecuniary Interest (DPI)

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

Other Significant Interest (OSI)

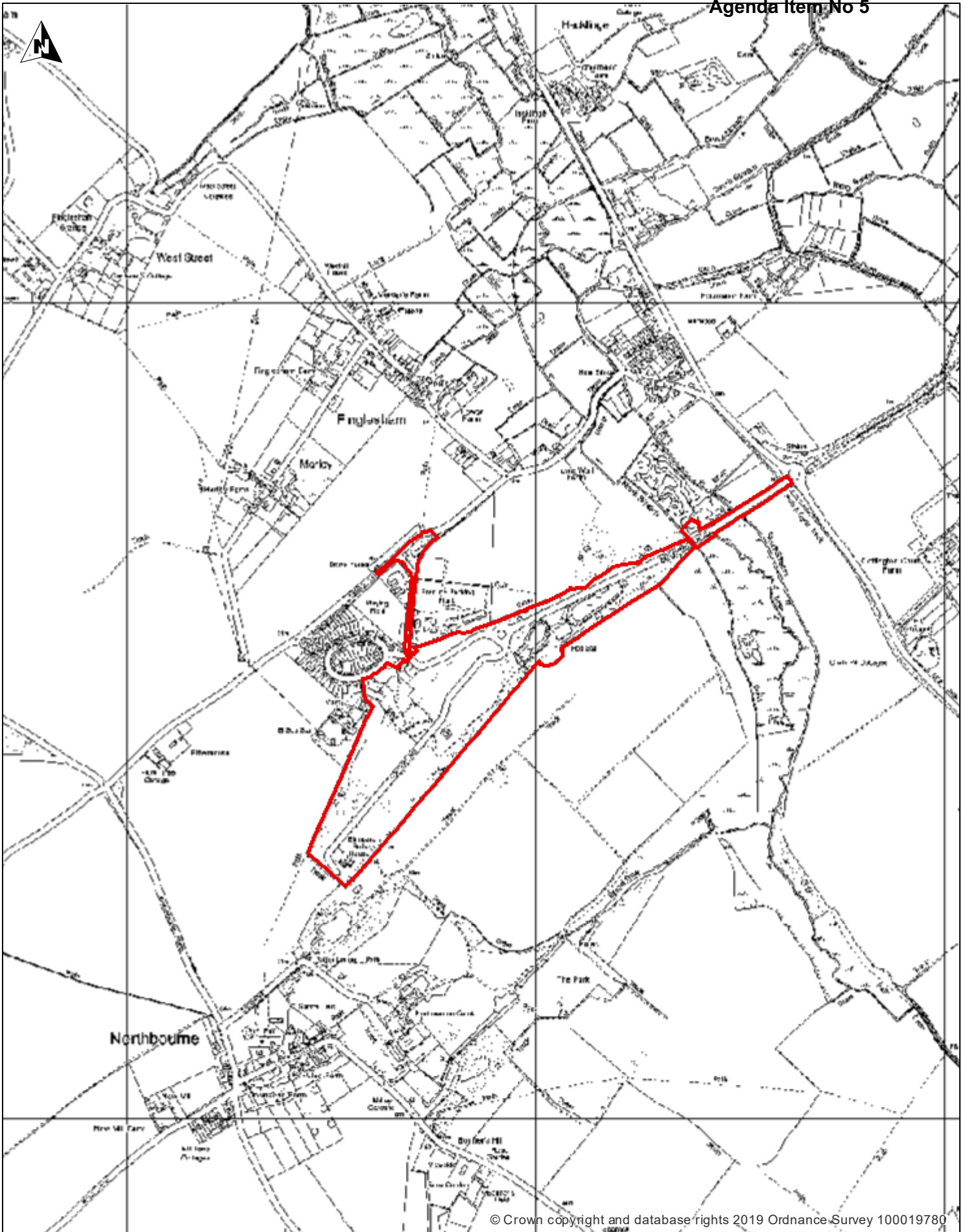
Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion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

Voluntary Announcement of Other Interests (VAOI)

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

Note to the Code:

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



20/00419

Site At Betteshanger Sustainable Parks  
Betteshanger Road, Betteshanger  
CT14 0EN

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/20/00419 – Outline application with all matters reserved for up to 210 dwellings including up to 12 self-build plots, together with up to 2,500 sqm of office (Use Class B1) floorspace and up to 150 sqm of retail (Class E) floorspace - Almond House, Betteshanger Sustainable Parks, Sandwich Road, Sholden**

Reason for report – Updated ecology considerations and number of contrary views (209)

b) **Summary of Recommendation**

Grant outline planning permission for the development subject to conditions and a s106 legal agreement.

c) **Planning Policy and Guidance**

As per previous Planning Committee report of 25 February 2021 attached as an annex.

National Planning Policy Framework (NPPF) (2019)

Key Paragraphs:

Paragraph 170 - Planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services and minimising impacts on, and providing net gains for, biodiversity. Preventing both new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

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

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

d) **Relevant Planning History**

As per previous planning committee report of 25<sup>th</sup> February 2021 meeting (attached as an annex)

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

As per previous planning committee report of 25<sup>th</sup> February 2021 meeting (attached as an annex)

All representations can be found in full on the online planning file. A summary has been provided below of the latest comments received following the submission of amended documentation. All previous comments are still relevant and are set out in annexed committee report.

DDC Ecology: The document sets out the intention to leave most of the detail of habitat creation, to compensate for the loss of priority habitat type, open mosaic habitat on previously developed land (OMH), to the post consent stage. It is also intended to leave the details of protected and priority species mitigation and compensation to the post consent stage. Since confidence in the location, quality and quantity of compensatory habitat creation was essential to the removal of my objection, I therefore have to sustain my objection. The document also omits the DEFRA biodiversity metric calculations which were needed to demonstrate that the applicant is able to achieve a biodiversity net gain, in line with the policy requirements of the NPPF.

In reference to the proposed area for compensatory habitat creation with the country park, the report states, '*this includes the entirety of the area identified by the natural environment officer*'. This statement is incorrect since the area which I had originally proposed was approximately 7 hectares. The applicant subsequently divided my proposed area into 3 sub areas (1a, 1b and 1c). Unfortunately, the applicant does not wish to proceed with sub areas 1b and 1c, which substantially reduces the area of suitable land for attempted compensatory habitat creation.

I am not able to agree to a 'minimum like for like approach,' of only providing an area of 4.68 hectares of compensatory habitat, i.e. an area equal to that lost on the development site. It is established ecological best practice to provide a larger area of compensatory habitat creation than the area to be destroyed, because compensation is a last resort and is never guaranteed to work.

I reiterate that the site has huge ecological significance, despite the lack of legal protection or designation as a non- statutory wildlife site. It is therefore imperative that the applicant demonstrates environmental responsibility by following the mitigation hierarchy and achieves genuine habitat compensation, in line with the policy requirements of the NPPF and also aims to meet the legal biodiversity net gain target set out in the draft Environment Bill. The achievement of any level of biodiversity net gain is always in addition to habitat compensation. It is therefore essential that the compensation offer is as robust and ambitious as possible.

Turtle doves: The intention is to leave surveys for this species within the country park to the post consent stage. It is important to state that any compensatory habitat creation for turtle doves should be carefully targeted to achieve the best possible results and should not involve destroying areas of existing high value habitat types.

The wording of the proposed condition dealing with a biodiversity offsetting scheme needs to be amended to guarantee an area in excess of the OMH being lost to development. Attempted compensatory habitat creation should form one block within Area 1 of the park. It is important to create one contiguous block of habitat rather than several small areas of fragmented habitat to reduce the edge effect which smaller areas of habitat are sensitive to. In ecological science, the edge effect is essentially

the issue of reduced ecological viability that occurs when habitats exist as small fragmented blocks and are vulnerable to erosion and disturbance factors coming from surrounding land.

I am not in agreement to the possibility of finding a completely different compensation site to Betteshanger county park, at the post consent stage. The creation of compensatory OMH is dependent upon the special soil types found within brownfield sites such as former collieries. The likelihood of the applicants finding another former colliery site in Dover district, where they would have the management control to attempt OMH creation is highly unlikely.

CEMP condition: This condition should address impacts upon legally protected and priority species present on the development site at the time of the construction works.

Plan: This plan still includes Area 2 within the country park, which I have already rejected due to the presence of legally protected lizard orchids, recorded during my September survey of the park. I also found very limited opportunity for OMH creation within this area. The other alternative areas proposed by the applicant shown on this plan are small and fragmented, which for reasons already stated would be ecologically unsound as a compensation offer.

Council for the Protection of Rural England (CPRE): CPRE Kent, the countryside charity remains concerned that the high environmental value of Betteshanger is not being addressed adequately. Technical note 8, goes some way to recognize the high environmental value of Betteshanger Colliery but falls short of acknowledging its significance and rarity in terms of biodiversity. Open Mosaic Habitat (OMH) takes approximately 15 to 20 years to become established and mature enough to sustain an array of flora and fauna and this can be said of Betteshanger. The area has naturally regenerated with very specific flora and fauna moving in over time. Each OMH is unique in its own right. Not all support the same biodiversity, though there may be similarities. Betteshanger supports the lizard orchid, pennyroyal and turtle dove.

Furthermore, according to Wildlife and Countryside Link, 50% of wildlife rich brownfield sites have either been lost, damaged or are under threat, as with Betteshanger currently. Betteshanger is also unique due to being an old coal mine as it provides a distinct setting and substrate which attracts very particular types of flora and in turn fauna. Betteshanger's attractiveness to wildlife is further compounded by being surrounded by a mature canopy of broadleaf mixed woodland and scrub, which flanks the area on most sides. This mature woodland and scrub provide a sheltered area for the turtle dove to forage in and retreat from when threatened. CPRE Kent has previously pointed out that being ground seed and granivorous feeders, turtle doves are extremely vulnerable to predation. Its highly likely turtle doves thrive at Betteshanger because of the surrounding mature trees and easy accessibility to food on the OMH. To recreate this habitat in fragmented bits within the country park, we feel would not be viable nor constitute a 10% biodiversity net gain or indeed any net gain. Breaking up one large site into several isolated smaller bits cannot constitute a net gain and may lead to the mitigation becoming unviable and unsustainable. Furthermore, do not agree with the practice of sacrificing one habitat and replacing with another as compensation for the loss of habitat on a site due to development.

Aspect Ecology have provided insufficient tangible evidence-based research or data to demonstrate their mitigation is deliverable or viable. There is no guarantee to the mitigation being successful and not having any adverse impact on the turtle doves and other rare plants and wildlife currently dependent upon Betteshanger. This is contrary to the NPPF guidelines. OMH is regarded as being of 'high environmental value.' A



site should be considered of high environmental value when it contains habitat and/or species listed under Section 41 Natural Environment and Rural Communities Act 2006. Wildlife and Countryside Link state statistics tell us that just 6% - 8% of brownfield sites fall into the high environmental value classification. This is a tiny amount and further demonstrates how rare and valuable Betteshanger is in terms of its contribution to biodiversity.

Likely significant harm to Betteshanger's biodiversity cannot be avoided. The mitigation on offer is clearly not adequate, and no data has been offered to support the claims made. Therefore, urge the LA to either wait with their decision until such time as robust data becomes available to demonstrate beyond doubt that the mitigation of OMH is likely to be successful or refuse permission outright.

More generally, we are extremely disappointed to note the applicant's unwillingness to commit to a minimum 10% biodiversity net gain. Regardless of the technical justifications the applicant seeks to provide, by taking this position they are clearly demonstrating there is no genuine concern for the sites biodiversity as they only wish to provide the bare minimum that they can get away with. In any event, it is CPRE Kent's view that material weight should now be given to emerging policy DM38 of the new Local Plan (which amongst other consideration seeks 10% Biodiversity Net Gain) given the Government's commitment to proceed with the Environment Bill within the Queen's speech of the 11<sup>th</sup> May 2021. At a very minimum and should the Council be minded to approve the application, the Section 106 legal agreement should be drafted so as to secure this level should the requirement become law prior to the commencement of development.

#### Public Representations:

A total of 209 objections have been received to date. This includes a petition with 3000 signatures objecting to the proposal. These are summarised in the previous report attached. Additional comments are listed below:

- The cumulative impact of development in the area must be considered
- Development on the site is in contradiction to the NPPF
- A different site should be identified for the proposed development that is less ecologically diverse
- Biodiversity evidence suggests application should be refused
- Destroying a rare habitat
- DDC should listen to experts
- The Design & Access statement doesn't address the amendments, still showing development on the eastern parcel that has been stated to be removed, this is confusing.
- Beavers have been identified in the eastern area of the site
- Proposals violate key principles of mitigation and offsetting
- Still highly uncertain whether a rare plant (Grass Poly) can be adequately compensated for through translocation
- The Geology of the site requires further investigation before the application is determined
- Ecology considerations have not yet been answered and agreed on, these need to be determined prior to the decision and should not be addressed in a s106 agreement or planning conditions
- Full evidence is required before a decision is issued
- object to the applicant using S106 agreements to avoid having to resolve the outstanding ecology issues before planning permission is decided.

- We need to know exactly which areas of the Park will be used for compensation and the current biodiversity value is before a decision.
- Mitigation of Turtle Doves is inappropriate and will loss a breeding site
- Draft policy DM 38 is relevant now
- 10% biodiversity net gain needs to be shown before determination
- How can it be decided that mitigation is adequate without details
- Receptor sites and habitats need to be identified before a decision is reached, they may not be appropriate
- Given the rarity of Grass Poly and that Betteshanger is the only site in Kent where it is found should at the very least, require confirmation of receptor sites, details of the translocation approach and the measures to increase likelihood of success.
- No evidence that Grass Poly can be translocated
- The developers can not be relied upon to fulfil ecological requirements

22 representations have been received in support of the proposals and are set out in the previous report.

An update on any additional representations will be provided verbally to Committee Members at the Committee meeting.

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

As per previous committee report of 25<sup>th</sup> February 2021 attached as an annex.

2. **Main Issues**

2.1 The main issues for consideration in this report are:

- Update on the application
- Ecology and Biodiversity
- Development Contributions summary/update
- The Planning Balance & Conclusions

**Assessment**

Material Considerations as set out in the previous Planning Committee report of 25 February 2021 attached as an annex.

**Update on Application**

2.2 This application was first reported to the DDC Planning Committee on 25<sup>th</sup> February 2021, following extensive negotiations with the applicant to seek to resolve the extensive ecology and biodiversity issues arising from the proposed development of the application site. All other material planning considerations had in officer's opinions been resolved and were set out in 25<sup>th</sup> February committee report. The previous report remains germane to the determination of this planning application. As was explained in the previous report, agreement had not been reached, at that time, as to the best way to satisfactorily resolve the ecological considerations, with areas of disagreement existing between the parties as to the proper approach to be adopted.

2.3 As a result of the outstanding issues, and due to the need to progress the matter, Members were asked to indicate whether they would be minded to approve the

principle of the residential development of the site in accordance with the outline application. Members resolved at 25<sup>th</sup> February committee that they would be minded to approve the proposed development in principle, subject to a further report back to planning committee on ecology matters for a final decision.

- 2.4 This application is therefore being reported back to Planning Committee following further discussions with the applicant to address the ecology concerns in relation to this outline planning application. An updated Ecology Technical Report has been submitted (publicly available) which sets out in detail how the ecology matters can be dealt with through specific planning conditions and the S106 legal agreement. This report therefore sets out the updated position and detailed clarification on the ecology aspects of the proposal. Nevertheless, the 25<sup>th</sup> February committee report (annexed) sets out the key ecological and biodiversity features relevant to this application and this is still applicable, although is updated accordingly in this report.

### Ecology and Biodiversity

- 2.5 The position in respect of ecology and biodiversity on the application site has been the subject of significant discussion since the submission of the application and has evolved throughout the course of the application. It is also expected to continue to be an ongoing and evolving package of measures to be controlled through planning conditions and the s106 legal agreement should outline planning permission be granted. At present, it is the case that there are still differing opinions between the experts on the best and proposed approach to the protection and long-term management of the specific and important species and habitats, in terms of both the impacts on site and mitigation and compensation off site. Most of the discussions with the applicants since the application was last reported to planning committee have focussed on the resolution of the proposed off-site mitigation and compensation which is principally proposed on Betteshanger Country Park. A revised Ecology Technical Note has been updated and the final version of this provided on the public website for any comments.
- 2.6 It is not possible or necessary within the scope of this committee report to deal with the all the individual impacts and detailed considerations on all the different species, habitats, flora and fauna that have been identified and raised during the course of considering the application. It is important to note that the following section is a summary of the key issues and the mitigation and compensation proposals that have been put forward for the site, rather than a discussion of all the individual species, flora and fauna that are all important in their own right and all have their own part to play within the wider discussion of biodiversity and ecosystems.
- 2.7 The application site is being used by a wide range of protected species, birds, invertebrates, and flora and fauna, is in certain respects unique and of high importance at both a county and national level, due to being rare, endangered, or threatened. The development site has also been identified as containing a number of Priority Habitats including– Open Mosaic Habitat (OMH) and Deciduous Woodland. Not least the site is being used by:
- 4 pairs of breeding Turtle Doves, a priority & threatened species
  - Invertebrates - An endangered spider (nationally rare & near threatened) and a rare ground bug

- Grass-poly – nationally rare, a priority species and protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended)
- Pennyroyal - nationally rare, a priority species and protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended)
- 6 species groups of Bats (Common Pipistrelle, Soprano Pipistrelle, Nathusius' Pipistrelle, Myotis sp., Nyctalus/Eptesicus sp. and Brown Long-eared)
- Badgers - 2 main setts recorded within the woodlands in the south-western and north-eastern parts of the site
- Great Crested Newt - in small pond located centrally within the site
- Reptiles – low populations, one adult Common Lizard and two adult Slow-worms
- Birds – an assemblage of birds has been recorded with other priority species including Cuckoo, Starling, Song Thrush, Bullfinch and Linnet.

2.8 All of the above species and flora, as well as a number of others, are protected by national and international law under the following legislation and species priority lists.

- The Wildlife and Countryside Act 1981 (as amended) and listed as Schedule 8 species, requiring protection under this legislation. Mammals have legal protection under this legislation.
- Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places duties on public bodies to have regard to the conservation of biodiversity in the exercise of their normal functions. It publishes a list of habitats under Section 41 which are of principal importance for conservation in England, 'Priority Habitats'. Priority Habitats identified on the site include: 'Open Mosaic Habitats on Previously Developed Land' (OMH) - comprising the development platforms proposed for development, also 'Hedgerows', 'Deciduous Woodland', 'Ponds', 'Reedbeds' and 'Lowland Fen'.
- There is also a national list – England Red List (2014) and IUCN Red List of Threatened Species, 2001. These list species of ecological significance that are vulnerable or threatened. There is also a list of plants in the Kent Rare Plant Register. Further, specialist organisations such as Kent Wildlife Trust (KWT) hold their own lists of species requiring specific protection.

2.9 National planning policy on the conservation of the natural environment is contained in the NPPF in paragraphs 170 – 177, with the key paragraphs set out in the policy section above. Further guidance is set out in the National Environment Planning Policy Guidance (amended 2019). The current Core Strategy does not have any specific policies for ecology and biodiversity, however, Policy CP7- Green Infrastructure Network is most relevant.

2.10 In summary, the NPPF paragraphs 170 and 175 are considered the key tests for planning and decision makers to consider.

Paragraph 170(d) – *minimising impacts on and providing net gains for biodiversity, including coherent ecological networks that are more resilient to current and future pressures.*

Paragraph 175 – *When determining planning applications LPA's should apply the following principles: (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; (c) development resulting in the loss or deterioration of irreplaceable habitats ... should be refused, unless there are wholly exceptional reasons and a compensational strategy exists.*

**Therefore Paragraph 175 (a) identifies the determinative issue to resolve i.e. is the biodiversity harm adequately mitigated, or can it be compensated for?**

- 2.11 A number of parties have referred to the relevance of Draft Local Plan Policy DM 38, however the Draft Local Plan and its policies are only at the consultation stage and although a material planning consideration in the determination of this planning application, due to being at this early stage in the plan making process have only limited weight. Consequently, they shouldn't materially affect the assessment of this application and the recommendation as set out.
- 2.12 In a similar position is the Draft Environment Bill, which although of significant relevance, is only currently in a draft form and has not been formally passed as national legislation with full policy weight. Its requirements, including a minimum of 10% biodiversity net gain do not therefore impose any requirement on the Council in the planning process at this stage.
- 2.13 In response to the many and highly informed ecology/biodiversity objections, including a number of recognised ecology organisations and statutory consultees, updated ecology documents and assessments were submitted by the applicant on a number of occasions with amendments made to the proposed scheme. These amendments were:
- The originally proposed eastern development area of the site was omitted to enable retention of woodland habitat for the 3 pairs of Turtle Doves. A revised layout has been provided that identifies that Woodland W1 and adjacent land is now fully retained. This will minimise loss of existing nesting habitat within the site and provide the conditions for retaining 3 breeding pairs of Turtle Doves on site.
  - The existing Woodland (W4) to the southeast of the site is now retained as existing, instead of being reduced in size.
  - Existing habitats that do not form the development parcels are to be retained and enhanced on site.
- 2.14 During the 25<sup>th</sup> February planning committee it was discussed and requested that a group of trees (referred to as G29) should be retained. This was discussed with the applicants, who have stated that this group of trees are all young, Category C trees, as set out in the Arboricultural report and it is not intended at this stage to retain these trees due to the impact this would have on the proposed development parcels, that form the main areas for development. In addition, existing trees and woodland to the west, south and east are being retained and enhanced.

#### Compensation and Mitigation

- 2.15 The key test for decision makers is set out in paragraph 175(a) of the NPPF - can biodiversity harm be adequately mitigated, or can it be compensated for? As far as practical land that is not proposed for development will be identified for the mitigation of on-site ecology harm and this is to be controlled through planning conditions to be set out later in the report. However, the nature and scale of ecology and biodiversity present on the application site requires compensation off-site and, in particular, on Betteshanger Country Park (BCP) site that is also owned by the applicant. By providing mitigation and compensation in an appropriately controlled scheme the requirements of paragraph 175(a) can, in officer's opinions, be satisfied.
- 2.16 This aspect of the proposal has been the subject of continued discussions with the applicant since the 25<sup>th</sup> February Planning Committee. The previous mitigation and compensation provided an outline scheme, for confirmation at a later date, to partly include a piece of land on Betteshanger Country Park (BCP). This land, however, contained the Schedule 8 protected Lizard Orchid and so the potential for the use of another unspecified site was identified through The Environment Bank. An outline strategy was provided but was lacking in any detail or clarity of the approach to be undertaken. This was to be controlled through planning conditions and the s106 legal agreement. However, the lack of detail and clarity of approach did not provide confidence that an appropriate mitigation and compensation scheme could be provided, although there was clearly the availability of sufficient land on BCP to achieve this in principle.
- 2.17 The revised approach set out in the Ecology Technical Note dated 26<sup>th</sup> March 2021 is now being proposed, however further updates and amendment of some of the wording has been discussed and agreed with the applicant to address some of the ongoing concerns, in particular, as identified by DDC's Snr. Environment Officer.
- 2.18 It is still proposed to deal with the ecology matters through planning conditions and the s106 agreement, however the terms of the s106 and planning conditions are more robust, providing the detail and clarity that was previously not available. Updated surveys of BCP have not been provided yet to fully inform the approach, but this has been accounted for within the terms of the s106 and the more detailed planning conditions. The proposed terms of the s106 to address the compensation on BCP are set out below:

*To submit a Biodiversity Offsetting Scheme prior to submission of a Reserved Matters application for the approval of the LPA/DDC. This will include the following:*

- *In excess of 4.68ha of open mosaic habitat creation;*
- *Turtle Dove habitat enhancement measures;*
- *To include measures to mitigate, provide suitable habitat and ongoing protection of all invertebrates and plant species found on the application site (including Grass Poly and Penny Royal)*
- *Provision of biodiversity impact calculations using the Defra metric to demonstrate an overall net gain under the proposed development (i.e. in excess of no net loss);*
- *An ecological management plan covering the above measures for a period of at least 30 years from the date of implementation;*

- *The ecological surveys and feasibility works to determine and inform such a scheme including a qualitative and quantitative assessment of all land on BCP and Turtle Dove species survey;*
- *Measures to protect the land/sites forming these works and ongoing protection;*
- *The timetable for the delivery of the scheme; and*
- *Provision for the funding of any organisation appointed to monitor and manage the ecological management plan.*

*To fully implement the Biodiversity Offsetting Scheme as approved by the Council (or any such revisions to such Scheme as approved by the Council).*

*In the event that any of the above measures are to be delivered within an alternative site to Betteshanger Country Park, this would be subject to the approval of the Council and reasonable endeavours would be used such that an alternative site is located within the District of Dover.*

- 2.19 The planning obligations contained in the s106 legal agreement require the submission and approval of an offsite habitat compensation strategy to offset loss of OMH and the impacts on Turtle Doves, other protected species and flora to ensure a biodiversity net gain under the proposals. This will require that details of the new habitat creation and species translocations and ongoing management and monitoring are undertaken. This package of obligations is considered to satisfy the requirement under paragraph 175(a) of the NPPF to mitigate and compensate for any biodiversity loss on the development site.
- 2.20 The Ecology Technical Note also includes a plan showing a number of different land parcels on BCP. It includes the land previously identified that contains Lizard Orchids, along with new areas of other land identified by the DDC Snr Env. Officer in her consideration of the best available site on BCP. In addition, other smaller parcels of land have been identified. On further discussion of this plan and the sites identified with the applicants, it was stated by the applicants that this plan shows the availability of options on BCP and that other parts of BCP, following a full ecological survey of the park, could be identified as more suitable. The totality of the areas of land involved in the BCP is considerable and well over twice the total land area to be lost on the application site. Some of it, whilst being suitable in ecological terms, is not the applicant's first choice as it is being actively used as part of the BCP offer. However, they accept that if other areas within the BCP are found to be unsuitable then this land may need to be included in the compensatory strategy. The land to be lost to OMH on the application site is 4.68 hectares. This is in several parcels. Ideally it would be replaced with a single area in the BCP. This is to ensure its ecological interest is maximised through avoiding what is known as "edge effect" where the margins have reduced value due to the impact of adjoining land uses. Again, this can be agreed post decision. It is unlikely to be a straight swap in terms of overall land area as the area needed can only be determined through use of the Defra Metric which gives a unitised value that can then be translated into area. In addition, the applicants have agreed to biodiversity net gain as being best practice albeit not yet enshrined in law (it should be noted that paragraph 170(d) of the NPPF does require that net biodiversity should be provided for but does not set a percentage gain that must be achieved). Again, this is covered in the s106 terms set out above. The Lizard Orchid area (Area 2 on the plan) that was considered unacceptable may be able to be partially used once a full ecological survey of the whole of BCP is undertaken and

therefore it has been retained at this stage. This plan is not the approved and final location of the compensation sites but sets out the availability of options to address the need to provide suitable and adequate compensation land to address the range of ecological considerations and the determinative requirements of paragraph 175(a). It is noted that securing off-site mitigation and compensation which is appropriately maintained for at least 30 years has been supported by Inspectors at appeal (APP/J4423/W/20/32585555).

- 2.21 The terms of a completed s106 are legally binding (and potentially enforceable by injunction) and are the most appropriate means of securing off-site works of any type. This is normally required for an affordable housing scheme, (including this site) or larger off-site highway works. Securing off-site ecological measures through the terms of a s106 is the most appropriate mechanism to secure off-site compensation, particularly in relation to an outline planning application.
- 2.22 This legal agreement does not contain the entirety of the mechanisms that are intended to be used to control the development and make it acceptable in planning terms. A number of detailed and specific planning conditions to suitably control the development and ensure appropriate measures are undertaken and fulfilled on site will also be imposed. The NPPF states at paragraph 54 that LPA's "should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations." A summary of the updated full list of conditions is set out at the end of this report and already included a number of conditions set out in the Ecology Technical Note to address the ecology issues. However, for clarity the following ecology conditions are proposed. These are amended and updated accordingly following an assessment of the wording put forward by the applicants (and can be further amended if required). These set out the level of detail being required under these conditions.

Construction environmental management plan

*No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:*

- a) Risk assessment of potentially damaging construction activities.*
- b) Identification of "biodiversity protection zones".*
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*
- d) The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) Responsible persons and lines of communication.*
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- h) Use of protective fences, exclusion barriers and warning signs.*

*The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.*



### Landscape and ecological management plan

*A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development [or specified phase of development]. The content of the LEMP shall include the following:*

- a) Description and evaluation of features to be managed.*
- b) Ecological trends and constraints on site that might influence management.*
- c) Aims and objectives of management.*
- d) Appropriate management options for achieving aims and objectives.*
- e) Prescriptions for management actions.*
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period)*
- g) Measures to protect the land/sites forming these works and ongoing protection measures;*
- h) Details of the body or organization responsible for implementation of the plan.*
- i) Ongoing monitoring and remedial measures.*

*The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.*

### Grass-poly translocation strategy

*Prior to the submission of reserved matters a strategy addressing translocation of Grass-poly shall be submitted to and approved in writing by the local planning authority. The strategy shall include the following:*

- a) Purpose and conservation objectives for the proposed works.*
- b) Detailed working method(s) to achieve stated objectives.*
- c) Details of creation of proposed onsite receptor areas.*
- d) Extent and location/area of proposed source and receptor areas on appropriate scale maps and plans.*
- e) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.*
- f) Persons responsible for implementing the works.*
- g) Details of initial aftercare and long-term maintenance.*
- h) Measures to protect the land/sites forming these works and ongoing protection measures;*
- i) Details for monitoring and remedial measures.*
- j) Details for interpretation and boundary treatment of receptor areas.*

*The strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.*

- 2.23 It has therefore been demonstrated that a robust approach to deal with the significant ecology considerations raised by this site and application can be

suitably addressed by the proposed s106 terms and the suggested planning conditions. This includes a replacement of OMH and a net gain in biodiversity on BCP, however, final details will be resolved through the proposed s106 and the suggested planning conditions.

2.24 The debate regarding the loss of OMH on site and whether it can be fully replicated off-site, the protection of flora and invertebrates identified on the site and the protection of bird species, in particular Turtle Doves and their foraging areas, remains relevant. Furthermore, there is also a concern as to whether a biodiversity net gain is being provided off-site, 10%, and therefore whether a sufficient level of biodiversity net gain can be achieved. The applicants have agreed to provide in excess of the replacement 4.68 hectares of OHM to be lost, however, they have advised that they cannot commit, at this stage, to a fixed 10% biodiversity net gain in the s106. Their reasoning is that BCP needs to have a full ecological survey undertaken to progress the compensation and mitigation proposals through the s106 and until this process is complete the commitment to a 10% biodiversity gain cannot be agreed. Nevertheless, the terms of the s106 have been amended to enable a net gain uplift to be determining through this process. Secondly, it is also of note that the 10% requirement for biodiversity net gain and the use of the biodiversity metric has still not be confirmed by government in legislation, with The Environment Bill still awaiting debate in Parliament. Its significance is widely known and some of its measures are already being used in practice, nevertheless, it does not currently form government policy or law. Consequently, DDC cannot insist that a 10% biodiversity net gain is provided at this stage, even though the applicants are aware that this is and will continue to be the expectation moving forward. The wording of the proposed s106 terms still enables a 10% biodiversity net gain to be secured through those ongoing negotiations, with this position made clear throughout. It is therefore concluded that there is sufficient certainty that an appropriate solution can be implemented in respect of the complex ecology considerations and the application can be determined on this basis, as the proposal is now considered to comply with paragraph 175(a) of the NPPF, i.e. providing an appropriate mitigation and a compensation scheme.

2.25 The following table identifies the species-specific and ecology concerns that were identified in the previous committee report and identifies the mitigation and compensation measures now being put forward under this application. It is therefore an update to the previous table for clarity.

<b>Species/Habitat/ DDC issues</b>	<b>Mitigation and/or Compensation Proposed by applicants</b>	<b>LPA comments</b>
<p><u>Turtle Doves</u> 4 pairs of breeding - priority species - 3 breeding pairs &amp; core territory area associated with the 3 pairs within the eastern part of the site is retained.</p> <p>4<sup>th</sup> breeding pair, tree used for nesting to be removed and lost</p>	<p>Compensatory habitat to be provided within BCP. Habitat areas of plus supplementary feeding is proposed to compensate for loss of one territory and impacts on other pairs. Mitigation will be secured by S106, to be</p>	<p>The proposed s106 terms require a detailed mitigation scheme with timescales and the need to appoint a suitable body to oversee the works.</p> <p>The s106 requires up to date evidence/survey of BCP to establish baseline and inform strategy.</p>

<p>How is loss of foraging area on development platforms to be addressed, how ensure retained on site or relocated to BCP</p>	<p>informed by further survey work and approved in consultation with the RSPB, inc. monitoring, with the intention that this is overseen by the RSPB/KWT</p>	<p>Breeds pairs on site and land controlled through robust planning conditions.</p> <p>Protection, mitigation, and compensation measures to be provided under the s106</p>
<p>Invertebrates - An endangered <u>spider</u> (nationally rare and near threatened) and a rare <u>ground bug</u> - The main areas of bare and recolonising ground forming the development platforms are considered to be of value for invertebrate species associated with open vegetation, with a number of species of conservation interest recorded.</p>	<p>The S106 will secure delivery of OMH provision to achieve a net gain in biodiversity, ensuring appropriate compensation. New habitat opportunities will be provided, allowing for colonisation by invertebrate species. This will be assisted by translocation of substrate and vegetation turves from the site to new OMH areas.</p>	<p>The proposed s106 terms require a detailed mitigation scheme with timescales and the need to appoint a suitable body to oversee the works.</p> <p>Protection, mitigation and compensation measures to be provided via the s106.</p> <p>Protection to be secured via ongoing management and monitoring of areas of highest diversity for invertebrates retained on site and controlled through conditions</p>
<p><u>Grass-poly</u> – nationally rare, a priority species and protected under Schedule 8 of the WCA 1981 Located on development platforms</p>	<p>Translocation over 2 seasons to onsite receptor areas (with additional offsite receptor to also be investigated).</p> <p>Seed collection would allow for planting of species in subsequent years if initial translocation unsuccessful</p>	<p>Translocation to continue until established off-site and on-site. Off-site receptor needs to be identified and set out in the scheme to be submitted under the s106 and planning condition.</p> <p>The proposed s106 terms require a detailed mitigation scheme with timescales and the need to appoint a suitable body to oversee the works.</p> <p>Protection, mitigation and compensation measures to be provided through s106 and conditions.</p>
<p><u>Lizard Orchids</u> - nationally rare, a priority species and protected under Schedule 8 of the WCA 1981  Identified on Betteshanger Country Park (BCP) compensation area</p>	<p>The BCP proposals seek to maintain suitable habitat conditions for Lizard Orchid, and management activities informed by an ecological survey of BCP which can identify Lizard Orchid locations so these can be</p>	<p>BCP– how will these measures ensure protection?</p> <p>The s106 requires up to date ecological survey of BCP to establish baseline and inform compensation and mitigation strategy. The compensation works will be fully informed by an appropriate body, overseeing all works.</p>

	avoided. Protection to be secured via a scheme, ongoing management and monitoring of new OMH areas under the S106.	
<u>Pennyroyal</u> - nationally rare, a priority species and protected under Schedule 8 of the WCA 1981	Recorded locations of Pennyroyal lie outside of proposed works areas (including enlargement of existing drainage ponds) such that it would not be impacted directly by the development proposals.  Onsite management will seek to maintain existing habitat for this species.	Ecological management plan condition requires details of protection and management to ensure not impacted as a result of any on-site works.  Translocation could also be considered, as per Grass-Poly to increase biodiversity. Referred to in mitigation scheme.
<u>Expert assistance in ecology matters</u>  Inclusion of a recognised ecological body to oversee and manage the ecological aspects of the proposal on and off-site including compensation scheme	During consultation discussions, both KWT and RSPB have indicated a willingness to be involved with ongoing management and monitoring of compensatory habitat if the scheme were to be consented. The mitigation scheme to be secured under S106 and agreed with the LPA and relevant consultees will detail ongoing management and monitoring arrangements, allowing for the land to be handed over to a recognised ecological body, or for works to be overseen by such a body through an agreed monitoring programme.	The s106 and planning conditions ensure mitigation, compensation, management plans and monitoring, allow a sufficient degree of certainty that this can be secured.

2.26 The suitability of part of the identified compensatory area (Area 2) of OMH has been questioned, throughout the consideration of this application. However, it is important to note that, in the absence of active management this is being

impacted by natural succession and over time will be colonised with different species and the OMH will be lost. OMH is defined by early successional plants that colonise bare (often remediated ground), which is partly why it is a priority habitat, as sites become colonised by other plants or developed over time. The application site and OMH at BCP will therefore be lost over time and neither is currently the subject of a management plan. Its long term management and protection is therefore capable of qualitative ecological enhancement in the long term, through the implementation of an active management plan. As such, the securing of a management plan for existing areas of OMH within the Country Park is also a significant benefit being put forward by the applicant that should be given significant weight in decision-making and as a valuable component of the mitigation and compensation strategy being proposed.

- 2.27 The conclusions are that the approach and biodiversity net gain delivered is consistent with NPPF policy and addresses the ecology objections raised sufficiently to enable a decision to be issued for the proposal. The applicants have now provided the level of clarity and certainty at this stage for Officers to confirm that ecology matters, as set out above, can be satisfactorily addressed, or have sufficiently demonstrated that the legislative requirements can be fully addressed. DDC's Snr Natural Environment Officer has clearly set out the concerns regarding the measures identified and any unresolved matters need to be addressed to an acceptable level through the s106 submissions and condition discharges (in consultation with the Environment Officer and statutory bodies) to provide sufficient certainty that the harm to ecology and biodiversity has been suitably mitigated or compensated. This approach accords with the NPPF and paragraph 175(a) of the NPPF, being the key determinative issue for decision makers.

#### Development Contributions, Summary and Update

- 2.28 The applicant has agreed in principle the Heads of Terms in relation to these contributions, that are considered necessary to make the development acceptable in planning terms. The full range of contributions required by the development are therefore being met by this proposal. The Heads of Terms are:

- Primary Education – towards primary schools within Sandwich/Deal Planning Areas – total £747,362
- Secondary Education- towards expansion at Goodwin Academy £4540 per dwelling or £730,940 in total
- Library - contribution towards Deal library services and bookstock of £11,644.50
- Social Care – contribution of £30,844.80 towards specialist care accommodation in the district
- Youth Service – contribution of £13,755 towards additional resources for Deal Youth Service
- Community Learning – contribution of £3,448.20 towards resources at Deal Adult Education Centre
- Thanet and Sandwich Coast Management Strategy - A total of £12,381.39 is required as a contribution towards mitigation strategy
- Off-site public open space – transfer of land for outdoor sports facilities at Betteshanger Social Club
- Playing Pitch Provision – contribution of £94,196.96 towards additional pitch provision

- NHS CCG - contribution towards General Practice in the Deal and Sandwich area of £181,440
  - Monitoring per trigger event of £236 per event
  - Payment of all associated legal costs.
- 2.29 The above is in addition to other terms set out in the draft s106 that includes affordable housing and the ecological terms set out in paragraph 2.17 of this report.
- 2.30 In addition to the above, the applicant has included and offered within the s106 a one-off contribution of £750,000 towards the completion of the Visitor Centre at Betteshanger County Park. This payment is to be made prior to occupation of the proposed development. This payment has not been the subject of any planning justification/case or viability report submitted to support the proposed application. The link between this payment and the two developments is not set out in a separate report or the draft s106. On seeking clarification of this payment with the applicant it is advised that this forms part of the socio-economic case for the development, as set out in the previous report. This one-off payment has not been considered as a separate material consideration to weigh in the balance in the determination of this application or report to planning committee as it is not considered to comply with CIL Regulation 122(2)(a) or (b) as it is neither necessary to make the development acceptable in planning terms nor directly related to the proposed development.

### **3. The Planning Balance and Conclusions**

- 3.1 The planning case for the development proposal is set out in detail within the previous committee report (attached) and this updated report and is considered to be persuasive, save for the concerns which remain in relation to the ecological issues identified in the report. It is considered that these ecology concerns can be addressed by the submission of detailed mitigation and compensation proposals which address DDC's Natural Environment Officer's concerns, through the proposed conditions and the terms of the s106 (as set out above).
- 3.2 In terms of the principle of development on this site, it has been demonstrated that the development accords with the objectives of the Development Plan and the NPPF, taken as a whole. The report sets out that residential development of this site is sustainable and in line with established policy objectives. The site has been identified for housing in the draft local plan and is found to be acceptable in terms of highway, drainage, landscape impact, layout, density, climate change considerations and the provision of affordable housing. Accordingly, it is appropriate to weigh up the significant economic, social and overall environmental benefits that do not result in demonstrable harm of the proposal against any negative effects and conclude that the development is sustainable and should be granted planning permission, in accordance with the approach identified in the NPPF.
- 3.3 The case for the economic, social and environmental objectives of sustainability set out in paragraph 8 of the NPPF has been made in the sustainability section of the previous committee report including a range of sustainable and environmentally friendly features, concluding that as a whole the proposal is a sustainable form of development with many benefits. Consequently, the proposal has been found to be acceptable in all other

material considerations. It is therefore an acceptable and sustainable site for residential development and it is recommended that Members approve the proposal as it meets the overarching objectives of the Core Strategy and the framework in the NPPF as whole. The NPPF provides clear policy support for the proposals, the 'tilted balance' applies and in accordance with Paragraph 11 (d) planning permission should be granted for the development "unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".

- 3.4 When weighing up the benefits of the development identified in the report, although there is a significant amount of local objection to the proposed development the identified harm (subject to the resolution of ecology) that would significantly and demonstrably outweigh the benefits of providing additional housing on this site that is not countryside but a partially developed site within the district, including the provision of 30% affordable housing, employment floorspace and community benefits, including the wide range of development contributions towards local infrastructure set out above, that have all been agreed in principle.
- 3.5 Additionally, the applicants have also identified their position in terms of the development being sustainable and the under delivery of housing sites. As referred to above, the Council has a 5-year supply of housing that can be delivered, however, there is also a need to provide additional housing sites in the Local Plan Review (Reg 18). It is therefore appropriate to approve in principle residential development on this site. A more in-depth discussion of the Council's housing land position and its deliverability is not, therefore, required at this stage. The proposed development of up to 210 dwellings will be a substantial contribution to the availability of housing within the district and will contribute towards the 569 units per annum now required under the methodology for housing need.
- 3.6 The proposal represents a commitment to delivering a positive outcome for the site and the surrounding area, balanced across a wide range of considerations. All material considerations have now been dealt with satisfactorily and are in line with the development plan and NPPF Framework taken as a whole and can be controlled through the suggested conditions and s106. The principle of development is therefore accepted.
- 3.7 On this basis, it is recommended that Members grant the permission sought by this application, having been minded to approve the scheme on the 25<sup>th</sup> February Planning Committee in principle, and following the further consideration of the significant ecological issues that are raised by this application. Notwithstanding that the form of this anticipated work has shifted since the initial report to planning committee, officers are now satisfied that each ecological challenge posed by the application can be adequately overcome in line with guidance and legislation and in particular paragraph 175(a) of the NPPF. Officers are satisfied that all material considerations have been addressed, including ecology and respectfully request that Members approve this application for outline planning permission.

**g) Recommendation**

- I The Planning Committee resolves to GRANT OUTLINE PLANNING PERMISSION subject to the completion of a Section 106 legal agreement to

secure the necessary contributions and ecological mitigation and compensation measures as set out above and subject to the following conditions to include:

- 1) Reserved matters details
- 2) Outline time limit
- 3) Approved plans
- 4) Phasing plan to be approved in writing
- 5) Self-build design code to be agreed as part of RM
- 6) Details of play space to form part of RM
- 7) Existing and proposed site levels and building heights
- 8) Internal acoustic requirements for dwellings
- 9) Construction Management Plan (updated to inc. E/H matters such as dust mitigation etc)
- 10) Highway conditions (parking, visibility splays, highway works fully implemented, turning facilities, cycle parking, gradient, surface, works to all footpaths and drainage, bond surface, surface water)
- 11) Sustainable Travel Plan to be agreed prior to commencement
- 12) Completion of the A258 Sandwich Road bus stop scheme prior to first occupation
- 13) PROW upgrades and management scheme
- 14) Completion of off-site improvements to Mongeham Road prior to commencement and subject to a safety audit process
- 15) Provision and maintenance of a pedestrian connection to Circular Road
- 16) Full Landscaping Details all green spaces
- 17) Open space management plan
- 18) Details of children's play spaces
- 19) Protection of Trees and Hedges and root protection zones
- 20) Hard landscaping works and boundary details/enclosures
- 21) No works on site until final SuDS details are submitted
- 22) Design details of surface Water drainage strategy
- 23) Implementation and verification of SuDS scheme
- 24) No other infiltration on site other than that approved
- 25) Full foul drainage strategy for approval
- 26) Environmental Construction Management Plan (as set out in report)
- 27) Programme of archaeological works
- 28) Details to be submitted at RM for compliance with Secured by Design principles
- 29) EVC points for each dwelling & 10% unallocated & employment parking spaces
- 30) Broadband connection
- 31) 4 Stage contamination, remediation, and verification conditions
- 32) Reporting of unexpected land contamination
- 33) 3 conditions recommended by The Coal Authority
- 34) Update survey to be carried out for Badgers prior to commencement
- 35) Landscape and ecological mitigation plan setting out safeguards for retained habitats on site (as set out in report)
- 36) Grass-Poly translocation strategy (as set out in report)
- 37) Management plan for new habitat creation, to include details of green roof/brownfield habitat provision
- 38) Design of a sensitive lighting strategy in relation to bats and other nocturnal species (in line with established guidance)



- 39) Implementation of a habitat manipulation exercise in relation to reptiles
- 40) Works affecting nesting bird habitat to be undertaken outside of the nesting bird season, or following nesting bird checks
- 41) Sustainable energy measures to be approved in accordance with the approved Energy Statement and Sustainability Assessment
- 42) BREEAM very good criteria for commercial buildings
- 43) Floor levels 150mm above ground level

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 recommendation and as resolved by the Planning Committee.

Case Officer

Lucinda Roach

- a) **DOV/20/00419 – Outline application with all matters reserved for up to 210 dwellings including up to 12 self-build plots, together with up to 2,500 sqm of office (Use Class B1) floorspace and up to 150 sqm of retail (Class E) floorspace - Almond House, Betteshanger Sustainable Parks, Sandwich Road, Sholden CT14 0BF**

Reason for report – Number of contrary views (182)

b) **Summary of Recommendation**

That members resolve that they are minded to grant planning permission for the development subject to a report back to the Dover District Council Planning Committee on the ecology issues and, subject to conditions and a s106 legal agreement.

c) **Planning Policy and Guidance**

Legislation

Planning and Compulsory Purchase Act 2004

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”

Natural Environment and Rural Communities Act 2006

Section 40 of the NERC Act 2006 imposes a duty on local authorities when exercising their functions, so far as is consistent with the proper exercise of those functions, to have regard to the purpose of conserving biodiversity.

Core Strategy Policies (2010)

CP1 - Settlement Hierarchy

CP3 - Distribution of Housing Allocations

CP4 - Housing Quality, Mix, Density and Design

CP5 – Sustainable Construction Standards

CP6 - Infrastructure

CP7 – Green Infrastructure Network

DM1 - Settlement Boundaries

DM5 - Provision of Affordable housing

DM11 - Location of Development and Managing Travel Demand

DM12 - Road Hierarchy and Development

DM13 - Parking Provision

DM15 - Protection of Countryside

DM16 - Landscape Character

DM17 - Groundwater Source Protection

DDC Land Allocations Local Plan (2015)

DM27 - Providing Open Space

Saved policies of the DDC Local Plan (2002)

AS1 – Betteshanger Colliery

The re-use of existing buildings and/or redevelopment of the former Betteshanger Colliery pithead, shown on proposals map for B1/B2/B8 employment uses will be permitted provided:

- i) A survey and evaluation is carried out to determine the extent of any contamination, and remedial measures proposed to ensure development of the site does not pose a threat to human health or nature conservation interests;
- ii) The amenity of neighbouring residential property is safeguarded;
- iii) New buildings are acceptable in landscape terms;
- iv) Adequate highway and site access arrangements can be made and the development is acceptable in terms of travel demand;
- v) Pedestrian and cycle links are made to Deal urban area; and
- vi) Nature conservation and archaeological interests are safeguarded.

In order to fully assess the impact of any proposals, the Council will require the submission of sufficient details of the buildings, landscaping, traffic impact and parking. Additionally, the Council will seek to enter into a legal agreement relating to off-site highway improvements that may be necessary.

#### Consultation Draft Local Plan Review

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this early stage in the plan making process however, the policies of the draft Plan have limited weight. Consequently, they shouldn't materially affect the assessment of this application and the recommendation as set out. Nevertheless, the updated background evidence base is material and where applicable, a more detailed assessment of these issues will be discussed in the report.

#### Kent Waste and Minerals Plan 2020

DM7 – Safeguarding mineral resources

CSM5 – Land- won mineral safeguarding

#### National Planning Policy Framework (NPPF) (2019)

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

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

Paragraph 11 - Presumption in favour of sustainable development for decision-taking. For decision taking this means approving development proposals that accord with the development plan without delay unless adverse impacts significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.

Paragraph 38 - LPA's should approach decisions on proposed development in a positive and creative way and work pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision makers should seek to approve applications for sustainable development where possible.

Paragraph 59 – To support the Governments 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 – 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 91 - Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and

c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

Paragraph 98 - Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

Paragraph 104 - Planning policies should provide for high quality walking and cycling networks.

Paragraph 107 - local planning authorities must have regard to planning policy guidance about coastal access. Efforts to improve public access and enjoyment of the coast should be encouraged where possible.

Paragraph 108 – Applications for development should make appropriate opportunities to promote sustainable transport modes, provide that safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network in terms of capacity and congestion) or on highway safety can be mitigated.

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

Paragraph 117 – Planning policies and decisions should promote an 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. Strategic policies should set out a clear strategy for accommodating objectively assessed

needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

Paragraph 120 - Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

Paragraph 121 - Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

Paragraph 122 – Planning policies and decisions should support development that makes efficient use of land, taking into account (amongst other considerations) the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.

Paragraph 123 – 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 124 – The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 – Planning decisions should ensure that developments:

- Will function well and add to the overall quality of the area, for the lifetime of the development;
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks; and Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where the fear of crime does not undermine the quality of life.

Paragraph 128 – Design quality should be considered throughout the evolution and assessment of individual proposals. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably.

Paragraph 130 – Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards.

Paragraph 148 – The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise, vulnerability and improve resilience; encourage the reuse of existing resources, support renewable and low carbon energy and associated infrastructure.

Paragraph 149 - Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures<sup>48</sup>. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.

Paragraph 163 - When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

Paragraph 170 - Planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the wider benefits of ecosystem services and minimise impacts on biodiversity and providing net gains in biodiversity. Recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 174 - To protect and enhance biodiversity and geodiversity, plans should:

a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity<sup>56</sup>; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation<sup>57</sup>; and

b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

Paragraph 175 - When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Paragraph 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, unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

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

Paragraph 180 – Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. This includes noise from new development and the need to avoid noise giving rise to significant adverse impacts on health and the quality of life, identify and protect tranquil areas prized for their recreational and amenity value and limit the impact of light and pollution for artificial light on local amenity, intrinsically dark landscapes and nature conservation.

National Design Guide (2019)

DDC Affordable Housing and Addendum SPD (2011)

Kent Design Guide (2005)

d) **Relevant Planning History**

DOV/02/00905 - Erection of Class B1, B2 and B8 business, industrial and warehousing units, creation of community park and country park, erection of visitor centre, construction of recreational cycling facilities and sculpture park and construction of water treatment facilities, access roundabout, roads and car parking facilities – Granted and partially implemented

DOV/17/00451 – Erection of a detached incubation building (B1, B2 & B8) with ancillary café (A3) and associated landscaping and car parking - Granted

DOV/18/00798 – Erection of a new building for use as a winery - Granted

DOV/20/00180 – Request for an EIA Screening Opinion – EIA not required

e) **Consultee and Third Party Responses**

All representations can be found in full on the online planning file. A summary has been provided below of the final round of comments received following the submission of additional and amended documentation and the subsequent two further re-consultation processes:

DDC Regeneration & Policy: Policy AS1 was carried forward from the 2002 Local Plan into the LALP for B1, B2 and B8 employment uses. The Dover Economic Development Needs Assessment (2017) considered that in terms of the suitability of the Betteshanger Colliery site for employment uses, there had been viability issues with the allocated uses given the location. The site was considered to be in a poor location given its relative isolation from the District's main urban areas and existing critical mass of business activity.

DDC is in the process of producing a new Local Plan that will cover the development needs of the District between the years 2020 to 2040. The first stage in the preparation of the new LP, has involved the carrying out of a Housing and Economic Land Availability Assessment (HELAA). The HELAA is an evidence based piece of work which identifies the supply of available, suitable and achievable land for development within the District. As part of the HELAA process existing development plan allocations that have not been implemented were also reviewed. The latest findings of the HELAA were published in March 2020. The HELAA identifies that the Betteshanger Colliery site (HELAA ref NOR005) has not come forward for solely employment uses to date, and that a flexible approach with mixed use development which includes an element of residential (including self-build) may be an acceptable alternative use of the land. The HELAA stipulates that a quantum of approximately 250 dwellings would be suitable for the Betteshanger Colliery site, however some loss in the housing quantum, in terms of the B1 office use proposed in the planning application, would be considered appropriate given its existing allocation, and would provide employment opportunities for the newly created residential dwellings to create a more sustainable development.

DDC Ecology: None of the information supplied within the amended documents alters my professional view of the impacts of this proposed development or the inadequacy of the proposed mitigation and compensation, I therefore sustain my objection to this development.

Compensatory habitat proposals: The proposal put forward by the applicant is largely unchanged from the last iteration of reports. It is to provide 10.5 hectares of compensatory habitat. The majority of this, however, does not constitute new OMH



creation in an appropriate part of the Betteshanger country park. Approximately 9 hectares of this area would be an attempt to enhance areas of existing OMH, or to trade one important habitat for another, e.g. by replacing species rich grassland with either scrub habitat or OMH. Enhancement of habitat as a form of compensation is acceptable in some circumstances, but it is predicated upon the need for that enhancement in the first place. I maintain my professional view that this area of the country park does not currently need enhancing, is not currently at serious risk of dense scrub encroachment and that attempts at enhancement would probably do more harm than good, especially if the applicant goes ahead with their proposal to simply translocate spoil from the development site to the country park. Both sites have been through a unique re-wilding process over the last 31 years since the closure of the colliery and contain an unusual botanical interest, with a number of legally protected and Kent rare plant register species. Translocation of spoil would simply undermine what re-wilding has already achieved and will continue to do in the future.

The Offsite Habitat Compensation Strategy, gives a breakdown of proposed habitat creation and enhancement. One proposal is to replace species rich grassland (in areas G1-G3) with scrub. This is not an acceptable trade off. It's somewhat contradicted by an earlier line in the table stating that scrub will be removed from area G3. Paragraph 3.1.6 refers to *'5.75ha of OMH restoration, creation and enhancement within species-rich grassland or ruderal habitats. This more than compensates for the 4.68ha to be lost under the proposal's*. I disagree with this view. Following my botanical survey of the country park in September 2020, I also disagree with some of the habitat descriptions given. For example, the OMH management plan describes areas O3, G2 and G3 as being heavily impacted by scrub encroachment. My conclusion was that these areas contained scattered scrub, which is struggling to grow on the nutrient poor substrate. The report goes on to say that *'scattered scrub is recognised as a key component of open mosaic habitat.'*

I maintain my position that the suggestion of using the country park for compensatory habitat creation was contingent upon finding an appropriate part of the park in which to attempt such an exercise, as a last resort, in line with the NPPF requirement to follow the mitigation hierarchy. This meant finding an area of fairly low habitat value, where an attempt could be made to reverse successional processes and create OMH, in order to add to the existing total area within the park. I put forward a proposal for 7 hectares of land, which is currently rank, species poor MG1 grassland, bordering an area of pioneer silver birch growing on bare colliery shale. Only 1.5 hectares of this land has been accepted by the applicant, which does not compensate for the loss of approximately 5 hectares on the development site.

Offsetting via The Environment Bank as an alternative proposal:

Insufficient detail of this alternative option has been provided by the applicant. The location is unknown beyond it being within the DDC district. The Offsite Habitat Compensation Strategy states that the alternative site is not guaranteed to be local to the development site and that because OMH needs to be created on previously developed land it would be difficult to directly replicate the habitat type. Instead, it would provide a habitat mosaic which offers a similar function to the associated wildlife. This proposal is unacceptable and fails to follow the principle of ecological equivalence in biodiversity offsetting. Habitats, especially priority habitat types, have to be replaced on a like for like or like for better basis. There has to be an exceptional ecological reason to do otherwise, for example removing secondary woodland from heathland. Since the substrate of the land is key, the only realistic prospect of creating OMH would be to find another colliery site, with a similar substrate to that of

the development site. That was why I originally suggested the use of Betteshanger country park.

Turtle dove compensatory habitat:

The Offsite Habitat Compensation Strategy states '*development will result in the loss of habitat supporting one turtle dove territory*'. I disagree with this view. Although research has shown that turtle doves generally use foraging habitat within 300 metres of their nesting sites, this distance is not set in stone. My view is that the birds occupying the four territories within the development site are very likely to be using all of the areas of OMH for foraging, since they support a range of seed bearing plants commonly eaten by the species. The development will not only destroy most of the feeding grounds, it will also result in a substantial increase in disturbance and predation by domestic pets. It is highly unusual to find four turtle dove territories in one location. The development is highly likely to result in the abandonment of all of them.

Page 11 para. 4.1.3 states '*Turtle Dove has been recorded from the wider area of the country park*'. The applicant has not carried out surveys of this species within the country park or sought records from the BTO. Both of which would have been advisable if the intention is to use the country park as a compensation site. The proposed area of scrub planting for turtle dove appears to be within the same area that I put forward for attempted creation of OMH. A more sensible approach might have been to find out if and where turtle dove are currently breeding in the park and to locate compensatory habitat in the vicinity of areas used by the species, (provided that scrub planting or bare ground creation does not destroy existing important habitats such as OMH or species rich grassland). Consideration also needs to be given to making those areas inaccessible to the public.

Updated Ecological Appraisal with consideration of legally protected plant species: There continues to be a considerable downplaying of the importance of the development site and a simplistic approach to site assessment and ecological valuation, by looking at individual habitat parcels rather than taking a whole site perspective. I refer to the following paragraphs:

- Page 17 para 4.2.2 Open mosaic habitat on previously developed land is still not listed as a priority habitat at the site.
- Page 19 section 4.6. OMH is still wrongly classified as sparse & recolonising vegetation and bare ground
- Page 25 para 4.6.21 it is conceded that the site supports OMH but it is still wrongly classified as of importance only at a local level. The development site should be classified as county level importance, if not higher. due to the unique botanical interest and presence of species such as (penny royal) and (grass poly), along with a suite of Kent rare plant register species.
- Page 23 para 4.6.11 *Lythrum hyssopifolia* is classified as only of county importance, despite there being only seven known locations within the country for this species and the last record in Kent was from 1968 at Betteshanger country park
- Page 32 Para 4.15.4. I sustain my concerns that attempting to translocate *Lythrum hyssopifolia* will not work. It is an endangered, legally protected species with very specialist habitat requirements. It's also an annual plant species, so if translocation fails and enough viable seed is not collected to try again, then you have effectively lost the population.

Biodiversity metric results:

I sustain my view that Aspect Ecology's results do not reflect an accurate condition assessment of either the OMH at the development site or the country park. I have examined the metric technical supplement and the criteria for a poor condition assessment of OMH within the development site are not met. My conclusion is supported by the findings of the Kent Wildlife Trust. Regardless of the difference in professional opinions, the headline metric results presented on page 17 of the Offsite Habitat Compensation Strategy, using their condition assessment rating, still gives a net biodiversity unit loss of 9.82%. I will take this figure as evidence that the proposals will not produce a biodiversity net gain.

In response to comments made in the ecology technical note, I understand that the site has undergone enabling works. However, the development platforms were levelled but they were never capped. This is the most important issue to consider since the substrate was not altered. In any case, I would not consider 10 to 15 years to be a recent timeframe. Brownfield sites can develop considerable value within this period of time. Para 4.3 refers *habitat creation or enhancement is feasible and can be achieved within relatively short timescales* in contradiction of their earlier point. The previous lichen survey that they refer to was carried out 18 years ago in 2002, which is not a recent piece of work. It did record one nationally scarce Kent Red Data book species *Cladonia cariosa*. It's possible that the site has increased in species diversity since then and it is therefore an important part of the ecological baseline which has not been undertaken.

Compensatory habitat proposals:

In response to my objection to the area of Betteshanger country park which was proposed for compensatory habitat creation, I carried out a survey, to try to find a more appropriate area of the park. An area of approximately 7 hectares was found. Its current ecological value is far lower than the areas proposed. The proposal has been rejected based upon the refusal to sacrifice part of the park which is currently being used to draw income through a specific recreational use. *'The alternative compensation area proposed by DDCs Natural Environment Officer is not feasible due to existing activities which are important to the economic viability of the Country Park. However, the revised compensation proposal is comparable in terms of biodiversity gain that can be achieved'*.

The quadrat based survey of my proposed area of the park showed that the vegetation composition is entirely different to the areas proposed. It consisted of a mixture of species poor MG1 grassland and very young re-colonising silver birch growing on areas of exposed colliery shale. There were no protected species of flora noted, including lizard orchid. Having surveyed the whole of Betteshanger park, it was my conclusion that this presented the very best area to attempt compensatory habitat creation, without the loss of existing valuable habitats such as species rich grassland or the constraints imposed by the presence of Lizard orchid, which is legally protected under Schedule 8 of the Wildlife & Countryside Act 1981 (as amended).

I welcome the commitment to produce a detailed ecological management plan for the country park, which takes into consideration, in due course, the possible requirement to arrest succession within existing areas of open mosaic habitat on previously developed land. However, having looked at the areas of the park proposed I maintain my opinion that these areas do not currently require enhancement and that the creation of 5 metre squared scrapes would do more harm than good and would not really constitute a form of compensation for the loss of OMH at the development site. It would also present an unnecessary risk of destroying lizard orchids, since it will not be practical to avoid all individual plants or their underground tubers, by attempting to

mark them all out in the summer months. Although there is scattered young scrub present, the areas are not currently being lost to scrub encroachment and comprise a valuable mixture of open mosaic habitat on previously developed land, scrub and species rich grassland. Areas of bare ground were also noted along with structural variation of vegetation, abundant resources for pollinators and a good botanical species diversity. I specifically carried out a quadrat based survey of area R2, since this is where it is proposed to create the largest scrapes. I do not recognise their description and they have not provided any botanical survey data for this specific area. My conclusion was that this area already supports OMH in a fairly good condition. There is some topographical variation evident by the presence of small mounds and seasonally wet depressions, which are likely to already be important for specialist species such as grass poly. This area of the park also contains a good population of Lizard orchids.

Turtle doves:

I maintain my view that the planting of scrub on the country park is unnecessary since scrub is highly efficient at establishing itself. Since the outline management proposals advocate keeping scrub to a level of 10-15%, it would not make sense to plant more. It would not compensate for the loss of turtle dove breeding habitat on the development site since this species is very faithful to its territories. I maintain my view that woodland W4 and areas of dense scrub should be retained on the development site by redesigning/scaling down the proposal.

In summary therefore, I sustain my objection to the proposed development. My objection may be overcome if the proposal to attempt to create compensatory habitat within Betteshanger country park within the areas they have specified, in favour of the area I have put forward and supply metric calculations which reflect a more accurate condition of habitats within both development site and country park. There is a clear trade off involved between the desire to draw income from recreational use of the park and the desire to seek planning consent for the development. It may be possible to retain some of the army assault course (or scale it down), and still create sufficient compensatory habitat and I would like the applicant to give further consideration to this possibility.

DDC Tree Officer: The Tree Protection Plans shows removal of existing hedgerows throughout the site. This established planting affords significant character throughout and provides valuable habitat to a wide variety of species. There seems to be no obvious reason for this, especially as the majority are to be replaced in the same location as those being proposed for removal. On this basis, I object to this element of the proposal.

The Tree Protection Plan also shows the removal of G30. The land upon which it is growing is situated approximately five metres lower than the adjacent proposed properties so I cannot see an obvious conflict with this extensive area of established trees. Given the significant contribution they offer to the site, their retention is recommended. G29 is shown to be removed. This is a significant block of young woodland with high amenity value, offering the site valuable habitat and character and as such should be retained.

DDC Infrastructure: Policy CP 6 of the DDC LDF CS 2010 states that development that generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either already in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed. Where developer contributions are sought, the Planning Act 2008 and the Community Infrastructure

Levy Regulations 2010 (the CIL Regulations) (Regulation 122) require that requests must comply with three specific legal tests.

Additional need arising from residential developments is calculated using average occupancy rates. Where the application is in outline and the final housing mix is not known, a policy compliant mix across all tenures is assumed for indicative purposes only. On this basis 563.57 new residents will be generated by the proposed development. The following requirements are considered to meet the CIL Regulation 122 test in all respects.

Accessible green space: Applying the DM27 requirement of 2.22 ha per 1,000 population against the anticipated number of new residents generates an overall accessible green space requirement of 1.251ha. The indicative site layout shows Accessible Green Space is to be provided on site. The applicant has also stated they will be providing security of tenure through a long-term lease for a parcel of land immediately adjacent to the south of the Betteshanger Social Club to be used as functional open space. An area of on-site accessible green space should be secured as part of the site layout at the reserved matters stage. The amount required will be dependent on the final agreed mix of housing applying the 2.22 ha per 1,000 population requirements of DM27. Based upon the indicative layout this should be no less than 1.251 ha. Provision and long-term maintenance/management of the accessible green space should be secured within the legal agreement.

Outdoor sports facilities: Applying the DM27 requirement 1.17 ha of natural grass playing pitches per 1,000 population against the anticipated number of new residents generates an overall outdoor sports facility requirement of 0.66 ha. On site provision would be impractical on a site of this size. An appropriate off-site contribution is therefore necessary for this site to be considered policy compliant. Appropriate offsite contributions are calculated by working out the proportion of a complete facility required to meet the additional need. The most up-to-date Sport England Facilities cost guidance advises a natural turf senior pitch is 0.7420 ha in size and has a capital cost of £100,000. The 0.66 ha natural grass playing pitch need generated by the proposed development equates to 94.2% of a natural turf senior pitch which equates to a proportionate offsite contribution of £94,196.96.

Improving pitch quality at the Betteshanger Social and Welfare Sports Club is an emerging priority from work currently being undertaken as part of the update to Dover's Playing Pitch strategy. Currently there is one adult football pitch overmarked on a cricket outfield. The cricket pitch is currently used by Betteshanger Colliery Welfare CC and overplayed by 12 matches per season. Improving the quality of pitches is a simple way of increasing capacity at a site; as such, priority should be to improve the quality of pitches that are currently overplayed.

The applicant is currently engaged with the Betteshanger Social Welfare Scheme Trustees and have stated they are committed to providing a financial contribution to the Betteshanger Social and Welfare Sports Club. A proportionate contribution, which would be £94,196.96 based upon the indicative housing mix for this scheme, improving pitch quality at the Betteshanger Social and Welfare Sports Club would be justified in this instance.

Children's Equipped Play Space: Applying the DM27 requirement of 0.06 ha per 1,000 population against the anticipated number of new residents generates an overall children's equipped play space requirement of 0.0338 ha. The indicative site layout shows Children's Equipped Play Space is to be provided on site. Provision and long-term maintenance/management of the Equipped Play should be provided onsite and

secured within the legal agreement. The minimum amount required will be dependent on the final agreed mix of housing applying the 0.06 ha per 1,000 population requirements of DM27. Based upon the indicative layout this should be no less than 0.0338.

#### Thanet Coast and Sandwich Bay Special Protection Area Mitigation Strategy

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. The strategy requires all development of 15 units or above to make an appropriate contribution. An appropriate off-site contribution of an indicative £12,381.39 is therefore necessary for this site to be considered policy compliant.

Monitoring Fee: The introduction of revised CIL regulations in September 2019 has confirmed that a local planning authority is entitled to levy a monitoring fee to cover the costs of monitoring planning obligations within Section 106 agreements. From this a proportionate monitoring fee of £236 per trigger event has been established. A monitoring fee of £236 per trigger event should be sought.

DDC Heritage: I understand how the development site sits within the landscape in relation to the CA and listed buildings and whether the site interacts with the church (which sits on the edge of the village and is exposed to open field systems to the west). Due to the undulations of the land and the heavy vegetation screening there will be no impact on these particular heritage assets: essentially it will not be seen nor can it be seen from the CA (of particular interest was the potential view from Church Lane). I would expect Historic England to come to the similar conclusion in respect of the registered park but KCC Heritage will be interested in the industrial archaeology.

DDC Head of Inward Investment and Tourism: I have been involved with the ambitions for the redevelopment of this site for many years; noting that the site has laid dormant for in excess of 20 years, I am therefore pleased to be able to support the proposals the subject of the current mixed-use application and hope that these will be realised.

By way of background, a positive, sustainable reuse of the former Kent Coalfield sites within Dover district, comprising Betteshanger, Snowdown and Tilmanstone Collieries, has been a long held ambition of the Council and other agencies for many years.

In the case of Betteshanger, the former Regeneration Agency, The South East England Development Agency (SEEDA) undertook to provide significant investment and create the major infrastructure to the site. This took the form of a major new roundabout on the A258 together with serviced access roads leading to both the former colliery spoil tip and the former colliery pithead complex site, sitting to the east and west of the A258 respectively. Substantial recreational facilities were to be provided on the colliery spoil tip and fully serviced development plots were laid out on the colliery pithead site to the west of the A258.

Despite positive marketing by SEEDA, little interest was forthcoming in respect of development opportunities at the colliery pithead site notwithstanding substantial prior infrastructure being put in place. SEEDA, however, was able to put in place temporary arrangements on the colliery spoil tip site which enabled a series of recreational activities to take place and start to mature over time.

Following an introduction through the inward investment channel to SEEDA (subsequently taken over by the Homes and Communities Agency) Hadlow College became the effective site owners some 12 years ago. During this time, major efforts have been concentrated on establishing the opportunities on the spoil tip – then branded as Betteshanger Sustainable Parks – based around recreation, history, heritage and environmental technology. A state of the art new visitor centre incorporating a mining museum was proposed and was scheduled to open during 2019. This ambition, along with any opportunities on the pithead complex was halted with the demise of the Hadlow Group going into educational administration in early 2019. Prior to the administration, it was evident that Betteshanger Sustainable Parks, through the marketing, operation and development of the activities had been able to make substantial progress which has seen ever increasing visitor numbers, with visitor numbers increasing year on year. Having developed a number of key foundations at Betteshanger Sustainable Parks, it is therefore important that this momentum is maintained and that other supporting uses and activities should now come forward on the former pithead site.

Quinn Estates, having acquired the site has brought forward a comprehensive mixed-use proposal for the pithead site. The Design and Access Statement accompanying the application sets out the context for the development and the relationships to the surrounding area along with the country park on the site of the spoil tip which has recently reopened following the Covid-19 lockdown.

The Council's Corporate Plan for the period for 2020 through to 2024 sets out the Council's vision and priorities for the next four years. In particular, it provides a focus for all our activities and services and the direction of travel. The Corporate Plan identifies our ongoing commitment to the regeneration of the district, both physical and social, and also emphasises the importance of the tourism in realising the opportunities for our district and economy.

The Corporate Objectives include:

1. Regeneration - Tourism & Inward Investment: Providing a clear vision and direction of place-shaping for the district, creating a vibrant destination with good transport links, making tourism everyone's business. Supporting the business community to enable a thriving local economy that provides the jobs, services, training and career opportunities that we need.

2. Housing & Community: Enable a range of good quality affordable homes for our residents in an attractive environment, and work to build healthy, resilient and sustainable communities, where residents have good access to facilities and transport links to further their wellbeing.

In conclusion, there is an enduring recognition of the need to see progress at Betteshanger and realise the previously made investment in the site. Quinn Estates has a proven track record of delivery across Dover district and the wider county. I therefore hope that considerable weight is given to the benefit that a further development of the nature mixed-use proposed will bring to the locality going forward.

DDC Environmental Health: We have no objection to the application, but recommend that appropriate conditions are applied to any planning permission, these include: Sound insulation measures for dwellings and four stages of remediation conditions.

Noise: The Entran Betteshanger Grove Environmental Noise Assessment Version 1 has been reviewed and its preliminary recommendations for mitigating noise noted.

Land Contamination: It was noted that Geo-environmental Reports are at a preliminary stage with recommendations for further intrusive and exploratory works, and sufficient data has been obtained through limited sampling at this stage to feed the Outline Remediation Strategy. The further works recommended are clearly detailed in the Ecologia Report, comprising the following six key areas:

- Additional intrusive SI works
- 6 rounds of gas monitoring (to inform requirements for gas protection measures)
- 3 rounds groundwater monitoring
- Probing investigation to determine extent of potentially abandoned adits
- Completion of Coal Mining Risk Assessment
- Completion of Minerals Assessment

The limited gas and groundwater monitoring to date has displayed evidence of elevated CO<sub>2</sub> levels and hydrocarbons/heavy metals respectively.

The Outline Remediation Strategy is a sensible rudimentary approach based on data obtained to date, with scope to be refined based on further investigative works and prior to any constructions works. The Outline Remediation Strategy's key suggestions are the use of clean cover systems, further gas and groundwater monitoring, provision of a Materials Management Plan a submission of a Verification Report, prior to occupation. We are satisfied that all key areas of concern have been addressed or provision has been made to address at some future point. The Environment Agency will need to provide comment in terms of the protection of controlled waters due to the primary and secondary aquifers beneath the site.

#### Air Quality/EVCP

The Air Quality Assessment submitted examines the impact of the development both for the construction and operational phases using relevant criteria published by EPUK and IAQM and also considers guidance published by Kent & Medway AQ Partnership. The use of Defra background levels for both NO<sub>2</sub> and particulates is used and modelling predictions calculated for operational year 2025. Model verification using DDC diffusion tube data is accepted.

For the operational phase of the development the results of the modelling assessment indicate that predicted annual mean NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations are well below (less than 75%) of the AQAL at the selected receptor locations both with and without the proposed development. These conclusions are accepted and no further consideration of impact on local air quality levels is necessary.

An Emissions Mitigation Assessment is presented, including an emissions mitigation calculation in accordance with the advice in the Kent and Medway Air Quality Planning Guidance. In respect of additional vehicle movements as a result of the development the Emissions Mitigation Calculation (presented DEFRA Emissions Factor Toolkit suggests a damage cost of £163,928.34. However, the following mitigation measures will be included within the proposed development:

- PV and associated low carbon technology.
- 1 Electric Vehicle charging point per dwelling with dedicated parking, or 1 charging point per 10 spaces (unallocated parking); and



- Travel Plan including mechanisms for discouraging high emission vehicle use and encouraging the uptake of low emission fuels and technologies.

The cost of implementing the above mitigation measures will exceed the Damage Cost figure by a significant margin. The implementation of the above mitigation measures should further reduce the impact of emissions during operation of the Proposed Development. In view of the above we would recommend these proposed measures are secured by way of condition, particularly in respect of the provision of ELV charging points.

For the construction phase of the development, the impact of dust deposition is examined and a range of mitigation measures identified and proposed. We would therefore recommend that a condition requiring a site specific Construction Management Plan is included that includes the mitigation measures identified. Provided this is implemented the EP have no further observations in terms of air quality impact of this development.

It is further noted that the report also examines nitrogen deposition on nearby sites and concludes that traffic generated by the proposed development is predicted to have an insignificant impact on N-deposition rates and airborne NOx concentrations within the Ramsar Site and SSSI. Whilst this is a matter for the Council's Ecology officer to consider, the deposition rates are compared to data presented on the APIS website which gives the current N-deposition rate within the SSSI of 16.2 kgN/ha/yr. The conclusion that there is insignificant impact on ecological sites appears to be robust.

DDC Housing Manager: There is a need and a demand for affordable housing of all sizes and tenures across the district. This application is proposing 63 units of affordable housing, which is in line with policy requirements, and we would request that the tenure split adopted is 44 properties for affordable rent and 19 for shared ownership. The mix proposed includes 1 and 2 bed flats, 3 and 3 bed houses. This mix would be supported as it meets the identified housing needs in the district. It is recommended that the shared ownership properties are predominantly 2 bedroom homes - ideally 2 bedroom houses with some 2 bedroom flats. Recent market behaviour indicates that these are the most popular sizes for shared ownership, with larger units presenting issues of affordability.

The inclusion of self-build plots is strongly welcomed. The self-build plots should be made available to people registered on the Dover DC Self-build register, and the size of the plots should be suitable for the requirements of registered people. This will require innovation from the developer to provide serviced plots which can facilitate semi-detached or terraced properties where applicants require this.

DDC Waste Services: Any future resident will want to have their waste and recycling collected. DDC operates an alternating fortnightly refuse and recycling collection. Each proposed property must be able to accommodate at least a standard bin set. A standard bin set for a family of 1 to 5 residents comprises a 180 litre refuse bin, 240 litre recycling bin, black box for paper / card and kerbside food caddy. If a household has 6 or more family members the property needs to be able to accommodate another 180 litre refuse bin which the household will be entitled to have. The developer needs to be made aware that it is DDC policy to charge for wheelie bin sets and that all bin sets must be purchased before future residents move in. A wheelie bin set will not be provided free of charge for any property.

The developer needs to ensure that a 26 ton collection freighter can access the site and reach all properties. Future residents will be required to present their bins at the property boundary so that the collection freighter can pass by to empty the bins. The developer needs to incorporate an area for bin storage for each property into their plans and preferably at the front of each building. The developer needs to ensure that the collection freighter can access all parts of the development. These need to be wide enough for collection freighter access and clear of parked cars as this will stop collections being made. The developments road surface must be able to take the weight of the (up to) 26 ton collection freighter.

Each of the business units will need to have a separate trade waste collection as DDC only has a licence to collect residential waste. The developer should provide a storage area for each business to allow the storage and collection of trade waste.

KCC Highways: The residual peak hour traffic generation as a result of the proposals is approximately 94 two-way vehicle trips, with a distribution at the site accesses of 27(am)/24(pm) trips to/from the north via the A258, 25(am)/41(pm) trips to/from the A256 to the west via the link between the site and Broad Lane, and 42(am)/28(pm) trips to/from the south via the A258. The assessment of the A258 route to/from the north shows that there is unlikely to be a severe impact as a result of the development.

The distribution on the routes to/from the west is such that trips to the A256 will be via Straight Mile and trips from the A256 will be via Northbourne Road and it is recognised there are limited sections of these two roads which currently require drivers to utilise passing places in order to proceed. However, the traffic flows on these roads are tidal, with the greater flows in both peak hours being eastwards from the A256 in Northbourne Road and westwards to the A256 in Straight Mile. Bearing in mind the number of likely eastbound development trips in Northbourne Road and westbound development trips in Straight Mile, the fact that these trips will be in the same direction as the greater tidal flows, and the limited sections of these routes which require the utilisation of passing places, the likelihood of there being significant increased conflict between opposing flows is low. There is also only 1 recorded personal injury crash on each of these routes in the five years to the end of 2019. Taking all of this into account the impact on these routes is on balance not considered to be severe. On the route to the south via the A258, the development adds only 9 turning movements (6 in and 3 out) at the A258 London Road/Mongeham Road junction. It is acknowledged that there is an existing section of Mongeham Road on the approach to London Road where the carriageway is of insufficient width for two vehicles to pass, and this can occasionally cause traffic to queue back into London Road when drivers having turned in from London Road then have to give way. The applicant has therefore proposed some works to improve the existing situation by formalising the existing informal give way arrangements, but for drivers heading towards London Road rather than those having turned in from London Road, which should prevent vehicles queuing back onto the A258. The scheme currently proposed will require a safety audit and need to complete a detailed design and approval process through the highway authority, however these requirements can be secured by condition.

With regard to the A258 London Road/Manor Road roundabout junction, base modelling data is available through the work done for the draft Local Plan. This provides a forecast of the likely existing situation at the end of the Local Plan period in 2040 with committed development and traffic growth taken into account. The proposed development trips have been added to this scenario in order to assess their impact. The assessment shows that the average delay time for vehicles passing

through the junction is likely to increase by 2-3 seconds as a result of the proposed development, which is not considered to be severe.

Access to the site will be via existing access points, with the main access being from the A258 Sandwich Road roundabout and secondary access from Broad Lane. These have both been assessed and there is unlikely to be a severe impact at these junctions as a result of the development.

The indicative Masterplan submitted also indicates pedestrian access to/from Circular Road providing a connection to the existing bus stops, the detail of which can be resolved through reserved matters. The proposals also include improvements to public transport access through the provision of two new bus stops on the A258 Sandwich Road near the existing roundabout, which have been agreed with the bus operator. These proposals have been subject to an independent safety audit and will be completed by the developer through a s.278 agreement. It has also been agreed to 'future proof' the potential diversion of bus services through the site by providing stops within the site, and this will be further considered and detailed through reserved matters.

There is an existing footway/cycleway along Betteshanger Road within the site, providing a connection to the existing pedestrian/cycle route in Sandwich Road which then provides a route to/from Deal and the Betteshanger Park opposite the site. Access to the site by bus, cycle and on foot is therefore acceptable.

The framework Travel Plan is noted and I would advise that monitoring of the same is not required by the highway authority bearing in mind the net reduction in vehicle trips as a result of the proposals and the provision of new bus stops. A detailed Travel Plan promoting and encouraging sustainable travel can be secured by condition, however the applicant may wish to consider funding discounts for bus travel and cycle purchase rather than funding monitoring of the plan.

The internal layout of the site and associated parking is not for consideration now and will be dealt with through reserved matters. Construction management, including routing and timing of HGV movements, can be dealt with by condition.

Taking all of the above into account the proposals are unlikely to have a severe impact that would warrant a recommendation for refusal on highway grounds. The following should be secured by conditions: CMP, standard highway, parking and access conditions, cycle parking, travel plan, EVC parking (10%) and completion of the A258 Sandwich Road bus stops and associated works shown on the submitted plans or amended as agreed, prior to the use commencing.

KCC East Kent PROW: Public Footpaths EE367 and EE368 would be directly affected by the proposed development. The existence of the Public Right of Way (PROW) is a material consideration. KCC PROW and Access Service are keen to ensure that their interests are represented with respect to our statutory duty to protect and improve PROW in the County. The team is committed to achieve the aims contained within the KCC Rights of Way Improvement Plan (ROWIP). This aims to provide a high-quality PROW network, which will support the Kent economy, provide sustainable travel choices, encourage active lifestyles and contribute to making Kent a great place to live, work and visit.

KCC PROW would have no objection to the proposal subject to the following condition should planning permission be granted:

A full PROW management scheme is agreed to approve enhancements and improvements to path alignment, surfacing, widths and signage.

Details of PROW management during construction if any temporary closures or diversions are required, as well as on and off-site funding should be included. Delivery of this agreed scheme at reserved matters stage / before permission is granted

Reason: Overall PROW are well represented and referenced in the multiple documents accompanying this application and KCC PROW support the intentions to achieve a high-quality, landscape-led sustainable development.

However, whilst the PROW network is included and the intention is to “retain existing” PROW we request that details of improvements and enhancements are provided as above in order to avoid complications at a later, less flexible stage in the planning process.

Impacts on Public Footpath EE367: EE367 runs from Northbourne to the south adjacent to and through the site, north to Finglesham. It would appear that the route runs adjacent to the boundary, we request details of how the boundary vegetation will affect the route where it currently runs as a field path. As the path approaches the development, we would request surface improvement to make the transition of surface as EE367 continues through the Community Park. At this point there would appear to be several road crossings of which we require details, and which must give pedestrian priority. EE367 then runs along the secondary access route, accesses and crosses Broad Lane to its continuation on to Finglesham. The Public Footpath must remain in a safe, wide open corridor; pedestrian access is important to the development for both new and existing residents and future employees and the existing network provides active travel opportunities for all. All details should be provided as part of the above scheme.

There must be clear signage throughout this area of the site and at entry and exit points to allow for ease and safety of user movement. The definitive route of EE367 must remain correct or a diversion under the Town and Country Planning Act will need to be applied for. Again, we would request that the applicant engages with KCC PROW at the earliest opportunity to confirm this as a matter of importance. All signage, widths and surfaces must be approved by KCC.

The applicant has not addressed the junction of EE367 and EE366A that provides an important link to the wider PROW network and the White Cliffs Trail; KCC PROW would seek funding from the developer to improve this route and take the “opportunity to enhance the Footpath Network” and “contribute positively to the local landscape”.

Impact on Public Footpath EE368: EE368 runs from its junction with EE367 on the secondary approach road, across field and then through the development again in the character area of Wetland Features. Details of surfacing, widths and signage improvements for this section should be included in the requested PROW scheme. We would also request details of entry and exit points of the development and how these are to be incorporated in light of permeability and all user safety. EE368 then runs cross field south east to Sandwich Road.

Impact on Public Footpath EE369: EE369 is not directly affected by the development, as it runs parallel to the south-east boundary. KCC PROW welcome the inclusion of the route when considering air quality, noise impact and visual assessment as all steps must be taken to mitigate any adverse effect on the users

experience of the route. This applies to the construction phase as well as on completion.

Impact on wider PROW network: KCC policy is to meet future demand by providing well planned new provisions, including green infrastructure to facilitate sustainable travel patterns. The PROW network provides an important element of this infrastructure and to this end, we examine all applications with regard to the wider area. This development is situated in an area of a significant number of PROW which includes historic and promoted routes in an area of revitalised economic and growing tourism/leisure use. The White Cliffs Trail, The Miners Way Trail are part of the White Cliffs Country which is of significant benefit to Kent and the PROW network plays an increasingly major part in supporting the benefits to health and economy of the region. The opportunity to enhance the network must be taken positively, hence our inclusion of improvements to EE366A and the wider sections of EE367 and EE368.

Transport Assessment / Travel Plan: The PROW network including these proposed improvements actively promote sustainable travel across the development and wider area. These improvements will benefit the development of Betteshanger as a whole. KCC PROW would request that the promotion and communication (welcome travel packs, Travel Plan website, newsletter) includes information regarding the opportunities provided by the PROW network for sustainable travel as well as exercise, leisure and open-air recreation for all community user groups. Engagement with KCC PROW can only advance the developer's "ongoing commitment to the occupants of the development and of the local area to support and encourage sustainable modes of transport within the surrounding area". PROW and Access Service will ensure sufficient information and resources are supplied to the Travel Plan Co-ordinator to maintain good sustainable transport connections and a walking and cycling infrastructure.

KCC PROW welcome paragraph 4.13; particularly the applicants acknowledgement "that the proposed development site has the opportunity to complement and further strengthen the PROW network surrounding the site" and look forward to this being realised. We await the early engagement with the applicant regarding the preparation of the PROW Management Scheme and inclusion of PROW in the Travel Plan measures.

KCC LLFA: The illustrative masterplan layout includes open surface water features within the open spaces which provide the required attenuation for management of surface water runoff from the site for the estimated impermeable areas. It is important that any attenuation or detention features are not located within areas of flood risk or surface water overland flow paths.

The current surface water strategy proposes that surface water will be managed within 7 catchment areas through a series of swales, filter strips and detention basins with infiltration where possible prior to discharge into North Stream to the north east of the site. We appreciate that these are integrated into open spaces. The information submitted to support the outline component of the planning application has demonstrated how surface water may be managed within an indicative layout. Given the high-level strategy presented:

- We agree that the approach as outlined within the FRA with attenuation of surface water to QBAR is appropriate and demonstrates that surface water can be accommodated within the proposed development area.
- We would refer the applicant to information within KCC's Drainage and Planning Policy Statement which describes policy in relation to drainage

operational requirements and consideration of other matters in relation to layout and design.

- The use of infiltration should be maximised insofar as is possible to reduce the volume of discharge of surface water off-site. It is essential that ground investigations and infiltration tests are undertaken as part of developing a sustainable drainage strategy for the site.
- We note permeable paving is proposed and would recommend that other underground services, such as foul sewers, are routed outside of areas of permeable paving or cross it in dedicated service corridors, particularly where sewers will be offered for adoption.
- At the detailed design stage, we would expect to see the drainage system modelled using FeH rainfall data in any appropriate modelling or simulation software as per the requirements of our latest drainage and planning policy statement (June 2019).

#### Additional comments

- Land drainage consent may also be required for any works within the watercourse in the southern area of the site. Consent will be required from KCC.
- It would be beneficial if a condition survey of the existing watercourses is undertaken to identify any constraints, maintenance needs and confirm connectivity.
- Landscape details for the detention basins will need to be provided with finalisation of the surface water management strategy to ensure that the basins provide the stated volume, have a suitable maintenance regime and will be sustainable as landscaped features.
- The ability of a system of this type to continue to operate into the future is dependent upon the maintenance being undertaken. We would recommend that maintenance information is requested when greater detail of the system is known. We strongly recommend the utilisation of a verification report condition to ensure the system is delivered as approved but which can also provide greater detail on maintenance specifications.

We recommend inclusion of the conditions relating to the submission of a sustainable surface water scheme, verification that these works have been undertaken and no other forms of infiltration to be approved.

KCC Archaeological Unit: The application is accompanied by a combined Archaeological Desk-Based Assessment and Built Heritage Assessment. Whilst the desk-based assessment provides some useful information, I do not agree with all of the conclusions reached.

Archaeological background: The site lies within a landscape that is generally rich in archaeological remains and there is good evidence for activity from the Prehistoric period onwards in the immediate vicinity of the proposed development site. Immediately to the south of the site there is a group of at least 8 ring-ditches that are visible as crop- and/or soil- marks on aerial photographs. These almost certainly represent infilled ditches that would have originally encircled a central barrow mound of probable Prehistoric (probably Late Neolithic or Early Bronze Age). The crop-mark of one such curving ditch – possibly related to a barrow or perhaps a small enclosure – would appear to have originally extended into the proposed application site. Numerous other barrows, trackways and enclosures potentially of Prehistoric date are recorded in the wider area.

There is also good evidence for Iron Age and Romano-British activity in the vicinity of the proposed development site. This includes a scheduled monument located around 430m to the west thought to represent enclosures for an Iron Age or Romano-British farmstead. There is further evidence for Iron Age occupation some 370m to the north, whilst Romano-British burials have been found immediately outside the proposed development site.

The applicant's desk-based assessment notes that it is unclear to what extent the construction of the colliery buildings and associated infrastructure would have impacted pre-colliery archaeological remains. It is possible that in some areas the former colliery's construction would have had a severe impact on below ground archaeology, but in other areas archaeological remains may have survived unaffected. Contrary to the applicant's desk-based assessment I note that buried remains of the colliery itself might be of industrial archaeological interest. Previous archaeological investigations at the colliery have, for example, revealed evidence for "sinkers' huts".

Recommendations: Given the archaeological potential outlined above I suggest that it is possible that the site's redevelopment could impact remains of archaeological interest. The applicant's archaeological desk-based assessment recommends archaeological mitigation works in the form of an archaeological watching brief maintained during groundworks. Instead I would suggest that a staged and targeted approach would be more appropriate, whereby a combination pre-existing and acquired data could be used to better understand and model the likely survival of archaeological remains across the colliery site, including both pre-colliery and industrial archaeological remains in order to target appropriate mitigation works. Such mitigation works might include archaeological watching brief(s), but could also include open-area investigation, detailed excavation or indeed no further work. I therefore recommend that provision is made in any forthcoming planning consent for a programme of archaeological work.

KCC Economic Development: KCC has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution. The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) require that requests for development contributions of various kinds must comply with three specific legal tests. These tests have been duly applied and give rise to the following specific requirements.

#### Request Summary

Primary Education: £4,642 per flat, £1,160.50 per house, total £747,362 Contribution to be directed at a schools within the Sandwich/Deal Planning Areas.

Secondary Education: £4,540 per flat, £1135 per house, total £730,940  
Towards expansion at Goodwin Academy 'Applicable' excludes 1 bed units of less than 56 sqm GIA.

Community Learning: £16.42 per unit, total £3,448.20  
Towards additional resources including IT equipment for the new Learners at Deal Adult Education Centre

Youth Service: £65.50 per unit, total £13,755

Towards additional resources for Deal Youth Service to mitigate the impact of the new attendees

Library Bookstock: £55.45 per unit, total £11,644.50

Towards additional services and stock at Deal Library to mitigate the impact of the new borrowers from this development

Social Care: £146.88 per unit, total £30,844.80

Towards specialist care accommodation within Dover District.

All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)

Broadband Condition suggested in line with the Governments compete to broadband facilities.

Primary Education: The proposal gives rise to up to 45 additional primary school pupils during occupation of the development. This need, cumulatively with other new developments in the vicinity of the Sandwich/Deal Planning Areas, can only be met through the enlargement of local schools or a new Primary school.

This proposal has been assessed in accordance with the KCC Development Contributions Guide methodology of 'first come, first served' assessment; having regard to the indigenous pupils, overlain by the pupil generation impact of this and other new residential developments in the locality. The County Council requires a financial contribution towards construction of the new Primary school of £4,642 for each 'applicable' house and £1,160.50 per applicable flat. 'Applicable' means: all dwellings except 1 bed of less than 56sqm GIA.

This process will be kept under review and may be subject to change (including possible locational change) as the LEA has to ensure provision of sufficient pupil spaces at an appropriate time and location to meet its statutory obligation under the Education Act 1996 and as the Strategic Commissioner of Education provision in the County under the Education Act 2011. KCC will commission additional pupil places required to mitigate the forecast impact of new residential development on local education infrastructure generally in accordance with its Commissioning Plan for Education Provision 2020-24 and Children, Young People and Education Vision and Priorities for Improvement 2018-2021.

Secondary School Provision: A contribution is sought based upon the additional need required, where the forecast secondary pupil product from new developments in the locality results in the maximum capacity of local secondary schools being exceeded. The proposal is projected to give rise up to 32 additional secondary school pupils from the date of occupation of this development. This need can only be met through the provision of new accommodation at Goodwin Academy.

The new secondary school accommodation will be provided at Goodwin Academy and delivered in accordance with the Local Planning Authority's Infrastructure Delivery Plan; timetable and phasing. This process will be kept under review and may be subject to change as the LEA will need to ensure provision of the additional pupil spaces within the appropriate time and at an appropriate location.

Community Learning: There is an assessed shortfall in provision for this service: the current adult participation in both District Centres and Outreach facilities is in excess of current service capacity. To accommodate the increased demand on KCC Adult



Education service, the County Council requests £16.42 per dwelling towards the cost of providing additional resources including IT equipment for the new Learners at Deal Adult Education Centre.

Libraries: KCC are the statutory library authority. The library authority's statutory duty in the Public Libraries and Museums Act 1964 is to provide 'a comprehensive and efficient service'. Borrower numbers are in excess of capacity and bookstock in Deal at 919 items per 1000 population is below the County average of 1134 and both England and total UK figures. To mitigate the impact of this development, KCC will need to provide additional services and stock at Deal Library to mitigate the impact of the new borrowers generated from this development, and the additional resources will be provided at Deal Library as and when the monies are received. KCC therefore requests £55.45 per household to address the direct impact of this development and cost of additional resources.

Youth Service: To accommodate the increased demand on KCC services the Council requests £65.50 per dwelling towards additional resources for Deal Youth Service to mitigate the impact of the new attendees.

Social Care: The proposed development will result in additional demand upon Social Care (SC) (older people, and also adults with Learning or Physical Disabilities) services, however all available care capacity is fully allocated already, and there is no spare capacity to meet additional demand arising from this and other new developments which SC are under a statutory obligation to meet. In addition, the SC budgets are fully allocated, therefore no spare funding is available to address additional capital costs for clients generated from new developments.

To mitigate the impact of this development, KCC SC requires:

- A proportionate monetary contribution of £146.88 per household towards specialist care accommodation locally in the Borough
- The Ministry of Housing, Communities and Local Government identified in June 2019 guidance Housing for older and disabled people the need to provide housing for older & disabled people is critical. Accessible and adaptable housing enables people to live more independently and safely. Accessible and adaptable housing provides safe and convenient homes with suitable circulation space and suitable bathroom and kitchens. KCC request these dwellings are built to Building Reg Part M4(2) standard to ensure they remain accessible throughout the lifetime of the occupants to meet any changes in the occupant's requirements.

KCC Minerals and Waste: Thank you for the mineral assessment of the safeguarded land-won mineral (Brickearth (Other Areas) – Ashford, Canterbury, Dover, Shepway) that is coincident with the above proposal.

The Mineral Assessment (MA) address the matter by examining if any of the exemptions from the presumption to safeguard (as set out in Policy CSM 5: Land-won Mineral Safeguarding) can be invoked. These being criteria 1-7 of Policy DM 7: Safeguarding Mineral Resources. Though only one criterion need be successfully met to invoke an exemption from mineral safeguarding.

The most compelling argument is that which is advanced to meet criterion 1 of the policy; given that the material is a inherently marginal type of brickearth, and brickmaking activity in the locality is historic.

In the DDC 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. 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 may 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.

Therefore, the relatively limited overall size of the site together with an absence of a brick making industry that is actively using this material strongly suggests that this mineral deposit is not of economic importance at this time. Therefore, it is considered that exemption 1 of Policy DM 7 can be invoked. This does not mean that the entire occurrence of this mineral in the District area is 'uneconomic' and each case has to be considered on its merits. It may be the case that a brick making industry may return to the area at some juncture in the future.

Kent Fire and Rescue: Confirm that the off-site access requirements of the Fire & Rescue Service have been met.

Kent Police: We have reviewed this outline application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the NPPF. We request a detailed discussion with the applicants.

Secured by Design (SBD) is the UK Police flagship initiative addressing designing out crime and security. The Gold award incorporates the security of the external environment together with the physical security specification of the home. Silver offers those involved in new developments, major refurbishment and the individual the opportunity to gain an award for the level of physical security provided. SBD have design guides for Housing "Homes 2019" suited to developments such as this and also for Self Build. There is a carbon cost for crime and incorporating SBD policy would provide an ideal opportunity for it to be addressed.

We have some concerns that should be addressed if this application proceeds, they include:

1. The development layout and permeability are a concern if they allow too many routes so that criminality and ASB can thrive as the natural surveillance is diluted.
2. The wildlife buffers, nature areas, green spaces and similar require protection to ensure that they do not attract anti-social behaviour e.g. bike, small vehicle or motorbikes.
3. A need to incorporate the latest designing out crime and crime prevention measures prior to the full planning application submission and based upon SBD and CPTED:

Access and Movement: Places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security;

Structure: Places that are structured so that different uses do not cause conflict;

Surveillance: Places where all publicly accessible spaces are overlooked;

Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community;

Physical Security: Places that include necessary, well-designed security features;

Activity: Places where the level of human activity is appropriate to the location and creates a sense of security at all times;

Management and Maintenance: Places that are designed with management and maintenance in mind, to discourage crime in the present and future. We welcome a detailed discussion with the applicant/agent about site specific designing out crime.

Kent and Medway NHS CCG: has delegated co-commissioning responsibility for general practice services in Kent and reviews planning applications to assess the direct impact on general practice. The CCG has assessed the implications of this proposal on delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution. In line with the Planning Act 2008 requests for development contributions must comply with the three specific legal tests. We have applied these tests and can confirm the following requirements.

	Total Chargeable units	Total	Project
General Practice	210	£181,440	Towards refurbishment, reconfiguration, improvements and/or extension of primary care facilities within the Deal and Sandwich Primary Care Network.

This proposal will generate approximately 504 new patient registrations when using an average occupancy of 2.4 people per dwelling. The proposed development falls within the current practice boundary of a number of practices within the Deal and Sandwich Primary Care Network.

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. Whilst it is not possible at this time to set out a specific premises project for this contribution at this point in time we can confirm that based on the current practice boundaries we would expect the contribution to be utilised as set out above. Any premises plans will include the pooling of S106 contributions where appropriate. General practice premises plans are kept under regular review as part of the GP Estates Strategy and priorities are subject to change as the CCG must ensure appropriate general medical service capacity is available as part of our commissioning responsibilities.

Planning for growth in general practice is complex; physical infrastructure is one element but alongside this workforce is a critical consideration both in terms of new workforce requirements and retirements. Any plans developed need to support delivery of sustainable services for the future. The CCG is of the view that the above complies with the CIL regulations and is necessary in order to mitigate the impacts of the proposal on the provision of general practice services.

Natural England: no objection - subject to appropriate mitigation being secured.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Thanet Coast and Sandwich Bay Ramsar site
- damage or destroy the interest features for which the Sandwich Bay to Hacklinge Marshes Site of Special Scientific Interest (SSSI) has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- The implementation of a suitable surface water management strategy, for the operational phase of development, which has been considered through a Habitat Regulations Assessment (HRA) Appropriate Assessment (AA)

We advise that the delivery of agreed mitigation measures, which have been considered at HRA. AA should be secured by an appropriate obligation.

Further advice on mitigation: The proposed development is adjacent to the Thanet Coast and Sandwich Bay Ramsar site this site is an internationally important wetland site designated predominantly for its wetland features such as: birds, invertebrates and vegetation including nearby grazing marsh habitats, with an extensive network of both brackish and freshwater ditches. The interest features of this site rely on a high quality of water and stable water levels; as such development proposals must demonstrate how negative impacts to water quality and water levels are avoided and/or minimised.

As this development will result in a net gain of hard standing surfaces there is the risk of increased, potentially contaminated, surface water run-off into the designated site, to appropriately mitigate this potential impact the development should implement an appropriate surface water management strategy such as that proposed within the provided Flood Risk Assessment document.

While the proposed surface water management strategy appears ecologically robust we advise that all mitigation measures required will need be considered by the Council, as the competent authority, via an appropriate assessment to ensure there is no adverse effect on the integrity of the site(s) in accordance with The Conservation of Habitats & Species Regulations 2017 (as amended).

Air quality impacts: Interest features for which the Thanet Coast and Sandwich Bay Ramsar site is designated for are sensitive to significant changes in air quality. The provided Air Quality Assessment reaches the conclusion that air quality impacts of traffic will have an insignificant impact on these sites. Natural England would concur that there is no likely significant effect resulting from the air quality impacts of traffic generation.

The proposed amendments to the original application are unlikely to have significantly different impacts on designated sites or protected landscapes than the original proposal. The proposed amendments appear to relate to impacts on protected species, local sites and priority habitats and species.

**Protected Species** Natural England has produced [standing advice](#) to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

**Local sites and priority habitats and species** You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the

local records centre, wildlife trust or recording societies. Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land.

Historic England: On the basis of the information available to date, we do not wish to offer any comments.

The Environment Agency: The proposed development will be acceptable if planning conditions are included. The previous use of the site as a Colliery presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a principal and a Secondary aquifers.

The application's Phase 1 and 2 Preliminary Geo-Environmental Assessment and Outline Remediation Strategy demonstrate that it will be possible to manage the risks posed to controlled waters by this development. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the NPPF. Without these conditions we would object to the proposal in line with paragraph 170 because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution. Suggested conditions include site remediation, verification and monitoring plans, ground contamination safeguarding and no other infiltration than as approved.

The Coal Authority: We have reviewed the Coal Mining Risk Assessment (RSK, November 2020) submitted by the applicant.

The report correctly identifies the presence of two recorded mine entries within the central area of the application site and that they have historically been treated. The report states that no-build zones will need to be calculated around the mine entries in order to inform the site layout. The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have been capped, in line with our adopted policies. The Coal Authority expects that the presence of these mine entries, and their calculated no-build zones, should inform the site layout. Built development should not be proposed above mine entries or within their zone of influence. The applicant should be advised that they need to calculate an appropriate zone of influence (no-build zone) for the mine entries, which will require consideration of site specific ground condition data, such as depth to rock head, in order that this can be used to inform this calculation.

We would also expect detailed consideration to be given to the treatment works already carried out to stabilise the mine entries and their current condition and an assessment made of the appropriateness of the treatment works for the development now proposed. In order to inform this assessment it may also be necessary to undertake

intrusive site investigations to determine the condition of the current treatment to the mine entries and to inform any further remedial works necessary to ensure the safety and stability of the development.

The Coal Authority will expect at the time of the submission of reserved matters relating to the detailed development layout that a plan will be provided with the exact location of the mine entries and their associated no-build zones identified. This plan should demonstrate adequate separation between the proposed built development and mine entries present. Appropriate remedial and mitigation measures should also be proposed where identified as necessary to ensure the safety and stability of the development as a whole. Consideration should be afforded to the significant intensification of use at the application site associated with the proposed development and appropriate recommendations should be made in respect of any mitigation measures, should these be deemed necessary, to ensure that no risks arise to public safety from the mining legacy features present.

Please note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property.

The report also recommends that further intrusive site investigations should be undertaken in relation to a possible third unrecorded mine entry on the site. This possible feature is not recorded within the Coal Authority's data, the report authors consider this may be because the feature was not sunk for the purposes of coal mining. As you may be aware the Coal Authority is a statutory consultee for issues of land instability related to coal mining legacy. We expect that the LPA will secure the recommendations of the report for further investigation of this feature. The applicant should be advised that a watching brief for all excavations, especially those for foundations and stripping operations, should be followed as a suitable precautionary measure and the site workforce, should be made aware that unrecorded mine entries could affect the site. If any unexpected ground conditions are found then the Coal Authority should be contacted immediately.

Recommendation: the Coal Authority recommends the imposition of the following conditions:

*1. As part of the reserved matters submission for the layout, a plan shall be submitted to the LPA which identifies the location of the mine entries, their calculated no build zones and their relationship to the built development proposed. This plan shall be setting out the information used to inform the layout, including the findings of intrusive site investigations and details of the mine entry treatment works and recommendations for any further remedial works and/or mitigation measures.*

*2. No development shall commence, on that area of the site where the coal mine entries are present, until any remediation works and/or mitigation measures to address land instability arising from these features, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.*

*3. Prior to the part of the site where the coal mine entries are present being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.*

The Coal Authority therefore has no objection to the proposed development subject to the imposition of the conditions to secure the above.

The following statement provides the justification why the Coal Authority considers that a pre-commencement condition is required in this instance:

*The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.*

River Stour Internal Drainage Board: Whilst the majority of the site is outside of the River Stour (Kent) IDB's district, the lower (eastern) end of the site is within it and the whole of the site drains to it. The proposal therefore has the potential to affect IDB interests; downstream drainage and flood risk in particular.

The applicant has calculated 100 year runoff rates for a number of separate catchment areas, which are proposed to drain via the existing (but modified) balancing ponds. I note that the proposal includes for surface water to be attenuated at source (with temporary storage and flow restrictions within each catchment area). However, it is requested that the applicant be required to calculate Greenfield runoff rates for a range of rainfall events and investigate further the possibility of infiltration. This will help to mimic Greenfield conditions and help to minimise water level fluctuations within the existing ponds and may reduce the amount of alterations needed to them. The ecological risks of these water level fluctuations and any works will need to be assessed.

It will be most important to ensure that the final surface water discharges into the receiving watercourse (the North Stream, which is IDB maintained) are not increased. Please note that the IDB's prior written consent will be required for any works within 8m of this watercourse, in accordance with the Land Drainage Act 1991 and IDB Byelaws. It should be noted that this is a pumped system, so increases in runoff volumes should be calculated and kept to a practicable minimum. I do not object to the proposal in principle but the rate of surface water runoff should not be increased and the increase in the volume of runoff should be kept to a minimum along with ecological impacts.

Southern Water: Southern Water records showing the approximate position of water mains within the development site. The exact position of the public assets must be determined in consultation with SW before the layout is finalised.

Should planning approval be granted then SW recognises its obligations under the new charging regime to provide capacity in the existing sewerage system to accommodate the needs of the proposed development. Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through SW's Capital Works programme. SW 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. SW will review and advise on

this following consideration of the development program and the extent of network reinforcement required.

SW will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of works required (If any) and to design such works in the most economic manner to satisfy the needs of existing and future customers. The overall time required depends on the complexity of any scheme needed to provide network reinforcement. SW will seek however to limit the timescales to a maximum of 24 months from a firm commitment by the developer to commence construction on site.

The planning application form makes reference to drainage using SUDS. Under current legislation and guidance SUDS are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long-term maintenance of the SUDS facilities. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

The applicant should be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises. General hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.

We request a condition is attached to the consent requiring details of foul and surface water sewerage disposal to be submitted to, and approved in writing by, the LPA. This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

Following initial investigations, SW can provide a water supply to the site. SW requires a formal application for connection and on-site mains to be made by the applicant or developer. We request that should this application receive planning approval this is added as an informative.

Homes England: In relation to the above application, I am writing to make you aware that Homes England has been in continued dialogue with the applicant to ensure that the early delivery of housing can be achieved on this site to contribute towards vital supply in Dover District in line with Homes England's key objectives.

It is now clear that this project will make best use of a site which has seen a significant level of publicly funded investment in the form of infrastructure brought forward by SEEDA and subsequent Agencies to pump-prime the land for development. This investment included the delivery of roads and utilities to serve the platforms created across the former colliery site.

Homes England fully supports this project, which will contribute towards the unmet need for housing in Dover District, with both market and affordable housing delivered and will bring forward a mixed use scheme which meets local needs and the requirements of the community.

Homes England will continue to work with the applicant to directly support the accelerated supply of new homes in the area and drive quality and delivery aligned with the core objectives of Homes England.



The British Horse Society: On behalf of The British Horse Society, an equestrian Charity which represents the 3 million horse riders in the UK. Nationally equestrians have just 22% of the rights of way network. In Kent, they have just 16.6%, increasingly disjointed by roads which were once quiet and are now heavily used by traffic resulting from development.

At a time when health and wellbeing has never been higher on both national and local agendas, horse riding is a sport which engages a high proportion of people with disabilities, women participants and participants over the age of 45. Nearly 40% of those taking part do not participate in other forms of physical activity. All these factors are very important in recognising that equestrianism is vital to the health of a significant section of the population. The contribution of equestrianism to the economy is far from insignificant. The cost is calculated by the British Equestrian Trade Association to be £5,548 per horse. A national contribution of £4.7 billion.

Dover is a district in which there is a surprising number of horse riders. We believe it is reasonable therefore to ask that, in the event that planning permission is granted, it is required that where cycleways are proposed, these are made as routes for all non-motorised users, including equestrians, which would make for a safer off road provision at a time when the additional traffic from the proposed development would render the local roads more busy. Furthermore, we would ask the Council, if it is minded to approve the application, to consider using some of the CIL money arising to improve the off road network for higher status users of the PROW in the surrounding area which would benefit both the existing and new residents.

Kent Wildlife Trust: Previously commented, stating four grounds for objection. Having reviewed new documentation provided by the applicant we have amended or maintained our position as follows:

- We withdraw our objection on the grounds that the survey information provided is inadequate to make informed comments or to make a robust decision on the application
- We withdraw our objection on the grounds that the application underrepresents the ecological value of the site as an interconnected habitat network with high biodiversity value, instead taking a simplistic approach that considers different habitat types in isolation
- We maintain our objection on the grounds that the development will have an unacceptable impact on breeding birds, particularly nationally endangered turtle doves
- We maintain our objection on the grounds that the application will lead to a loss of valuable open space which allows local people to connect with nature.
- We lodge a further objection on the grounds that the submitted Defra Biodiversity Metric 2.0 calculation is based on a flawed assessment of baseline habitat condition, and consequently the development will lead to an overall net loss to biodiversity

Insufficient Information: We previously objected on the grounds of the lack of data provided to make informed comments and to reach a robust decision. We note that surveys have been submitted that meet our expectations, therefore we withdraw our objection on these grounds.

Insufficient consideration of habitat networks and habitat connectivity:  
We previously objected on the grounds that the application does not consider the whole site and its value as an interconnected habitat mosaic supporting potentially a wide range of rare and valuable species. This particularly relates to the lack of

acceptance that much of the site represents the priority habitat type Open Mosaic Habitat on Previously Developed Land (OMH). We are pleased to see that the applicant has now accepted the presence of large areas of OMH on site and are proposing compensation for loss of OMH on a nearby site in its ownership at Betteshanger Country Park. We are happy to withdraw our objection on these grounds. However, we have concerns about the way the applicant has assessed this habitat for the purposes of undertaking its Defra Biodiversity Metric 2.0 Calculation, which we will address in more detail below.

**Impact on Breeding Birds:** We objected to this application on the grounds of potential impact on priority breeding birds, particularly Turtle Dove. We note that the applicant has responded to objections on these grounds by proposing compensatory habitat on Betteshanger Country Park. In our previous letter we stated that we would defer to the greater expertise and experience of RSPB over the question of impact on breeding turtle doves. We note that RSPB have maintained their objection, and Kent Wildlife Trust fully supports their comments. Therefore we maintain our objection to this application on these grounds.

**Loss of Public Open Space:** We objected on the grounds that the application will lead to loss of a valuable green infrastructure resource for local people to enjoy and connect with wildlife. The new proposals do nothing to compensate for loss of public open space therefore we maintain our objection to this application on these grounds.

**Biodiversity Net Gain:** We are pleased to see that the applicant has released a calculation for biodiversity net gain in line with our previous comments. These appear to suggest that the development, combined with proposed offsite habitat enhancement, will lead to a significant net gain to biodiversity. However having reviewed the calculation in detail we note that this assertion rests on classifying the existing OMH onsite as being in poor condition.

The criteria for OMH set out in the Defra Metric 2.0 Technical Supplement. Using the information provided in the Updated Ecological Appraisal we find it difficult to see how a condition assessment of poor is justified according to the criteria. These criteria correspond closely with the UK BAP criteria for OMH that are set out in the Ecological Appraisal, and explicitly recognise that the OMH on site meets most of these criteria. Moreover there is no mention of any of the undesirable species listed, meaning that none of the criteria for giving an assessment of poor condition have been met.

Given that most of the criteria are being met, though the criteria for moderate condition "*areas of bare ground with little species colonisation are large, with a high potential for improvement with better wildlife management*" also appears to be valid, we are of the opinion that a condition assessment of moderate would be most appropriate. We also note that the calculation similarly assigns a poor condition assessment to existing reed bed. We would challenge this assessment on a similar basis and assert that a condition of moderate would be more appropriate (see pp. 36-38 of Defra Metric 2.0 technical supplement for full condition assessment criteria for wetland habitat).

If condition assessment of moderate is applied to these onsite habitats in the baseline calculation, we calculate that the overall quantifiable loss of habitat onsite as a result of the proposed development would nearly double. This would convert to a significant overall net loss to biodiversity from the development even including the proposed offsite habitat enhancements at Betteshanger Country Park. We are

therefore lodging a further objection to this application on the grounds that it will lead to a measurable net loss of biodiversity, contrary to paragraph 170 of the NPPF.

RSPB: objects to the above application on the grounds of potential impact on priority breeding birds, particularly Turtle Dove. The Turtle Dove is an RSPB priority species, worked on with other organisations as part of the Operation Turtle Dove project in order to halt the decline of this species. The turtle dove is the UK's fastest declining breeding bird and is threatened with global as well as national extinction (IUCN Red List of Endangered Species and UK Red List of Conservation Concern). Breeding populations, both in England and in Europe, have collapsed in recent decades and the decline is continuing. The latest UK Breeding Bird Survey data shows a 94% fall in breeding abundance between 1995 and 2017.

Turtle doves have been a focal species for conservation delivery in England for over a decade. However, the continued decline of the UK population indicates that relying on the recent level of conservation delivery through agri-environment schemes, and localised measures deployed on reserves, has been insufficient. Therefore, a more targeted and intensive species-recovery approach is required rapidly, focussing on their remaining core breeding range which we have identified as Turtle Dove Friendly Zones (TDFZs). Here we focus on working with farmers, landowners and local communities to highlight the plight of this species and deliver habitat on the ground.

Kent is the stronghold for turtle doves which have a total of 12 TDFZs. The 4 breeding pairs noted in the Ecological Appraisal at Betteshanger form a significant population of the Lydden Valley TDFZ where our Conservation Advisors work to improve turtle dove breeding success through delivering habitat, supplementary food and technical advice. The RSPB has major concerns about the impact this development will have on this population.

The RSPB still has major concerns on the impact this change of land use will have on the population of turtle doves, a species which is now the UK's most threatened breeding bird. Betteshanger forms a significant population of the Lydden Valley Turtle Dove Friendly Zone, which is one of the remaining strongholds for this species. As such, we have a dedicated Conservation Advisor working to conserve their breeding and foraging habitats in this area through delivering habitat, supplementary food and technical advice. This is vital work if this population is to continue to thrive.

Disturbance impact: We remain with the view that although three of the turtle dove breeding territory areas will be retained within the new development, the encroachment and increasing levels of human disturbance will have a negative impact on this species given the proximity of the proposed housing to turtle dove territories recorded during the Aspect Ecology's Ecological Appraisal. There have been a number of studies that have demonstrated that turtle doves will not tolerate human disturbance next to any potential breeding sites. Turtle-dove *Streptopelia turtur* (2018 to 2028) "While tolerating human presence, dislikes breeding in or very near towns, villages or farm settlements. ...While owing much to man's cultivation and land management (sic), not prepared to accept relationship as close as those of Collared Dove, feral Rock Dove or Woodpigeon, in this respect being even more reserved than Stock Dove."

In addition, the distribution model for turtle dove in the upcoming European Breeding Bird Atlas (EBBA2) shows turtle doves are rapidly disappearing from urban environments and areas densely populated by humans.

Studies have shown that recently fledged turtle doves will rarely venture more than around 300 metres from the nest site and at this stage are likely to: 1. be very vulnerable to predation. With increased human habitation it is possible there may be adverse effects from generalist predators (e.g. cats, rats) that tend to congregate near to human habitat. 2. incur poor body condition if there is insufficient food nearby in the form of natural arable plant species.

Mitigation - As part of the mitigation for the loss of the fourth breeding territory, a proposed plan of the creation of turtle dove habitat has been put forward for Betteshanger Country Park, as outlined in the OMH Management Plan. While we welcome the inclusion of specific measures being proposed in relation to turtle doves, we have further concerns with the suitability of this mitigation.

There is a requirement for a more comprehensive data set to be included in the report such as, a baseline breeding bird survey. This should be undertaken before committing to any major habitat changes, as any habitat works could be detrimental to existing species already present. An analysis of BTO data for example has shown 15 registrations of turtle dove spanning from 2012 – 2019. Having known records on the site would suggest that there are already areas that provide habitat to support nesting turtle doves. Any habitat works would therefore be considered improvements rather than creation and can not be classed as net gain.

Betteshanger Country Park is opened to the public and use of the entire site is encouraged by cyclists, walkers and family groups. Although the plan sets to focus public access away from the areas planned for turtle doves, there is nothing stopping people from accessing and using the entirety of the site. The plan demonstrates a weak understanding of the pressures on the site of which will diminish its attractiveness to wildlife.

Planning/Policy considerations

a) NPPF Paragraph 175

b) Natural Environment and Rural Communities (NERC) Act 2006

Section 40 contains the general biodiversity duty “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.”

Turtle Doves are listed under Section 41 of the NERC Act as a priority species.

In summary, given the proximity of the proposed development to the current turtle dove territories, RSPB have major concerns that these areas will become unsuitable for breeding turtle doves, thus potentially losing the entire population at Betteshanger. The mitigation at Betteshanger while welcomed is not sufficiently adequate to address our concerns. On that basis, we cannot remove our objection and suggest that other options to secure more appropriate off-site mitigation are investigated.

Further comments - The RSPB maintains their objection on the grounds of the potential impacts on turtle doves. We welcome the need to look at appropriate mitigation locally for turtle doves should Dover Council be minded to grant permission for the proposed development at Betteshanger Sustainable Park.

RSPB met on site with the developers and ecological consultant in December 2020 to look at the potential of offering mitigation for turtle doves within Betteshanger Country Park. As discussed at the site meeting and outlined in our previous response to the application we believe full ecological baseline surveys need to be undertaken

before assessing the appropriateness of possible mitigation measures for turtle doves at Betteshanger Country Park.

It is clear from discussions and historical data available, that Betteshanger Country Park currently supports high levels of biodiversity. Until up-to-date ecological baseline surveys have been completed, we believe it is not appropriate to make an informed assessment on whether mitigation proposals are adequate. Although habitat containing three turtle dove territories is to be retained at the proposed development site, we still have concerns on the impact the development will have on these territories.

Council for the Protection of Rural England: CPRE Kent considers that there is no planning case for the development of this site and objects to the application for the following reasons, which are expanded upon in the full response online:

1 The site is not allocated for housing, The preamble to saved policy AS1 (Betteshanger Colliery) at para 15.04 states that “The redevelopment of the site for housing, retail or intensive recreation uses would not be acceptable.”

2 The site lies outside the adopted CS Settlement Boundary - 3 The Aim of the Local Plan Strategy of the Adopted CS. Policy DM1 Settlement Boundaries. The CS defines a Hamlet as ‘Name used in the Settlement Hierarchy to describe settlements with no facilities. Not suitable for future development.’ The applicants Travel Plan at Table 3.3 Local Facilities indicates that other than Betteshanger Social Club there are no other facilities near the site. On the evidence provided there is no over-riding need for development at this location.

3 The site is in an unsustainable location and cannot be made sustainable – The preamble to saved policy AS1 (Betteshanger Colliery) at paragraph 15.03 states that “In locational terms, the site is not sustainable”. Nothing has changed to make the site sustainable in locational terms. The Travel Plan shows that the site is not well served by services and facilities: Northbourne Parish Hall 4.2 (950m walk). There is no assessment of how these facilities are used and if there is any capacity to serve the proposed new development. The nearest primary school is Sholden C of E Primary 2.8km away. The main centres of employment and main shopping centres are over 5km away. There is a very limited public bus service: There is no evidence that the scale of development will enable a more regular bus service. This suggests that people will have to travel by car if they need to travel to and from work, go shopping or travel for entertainment.

There is an hourly rail service from Deal to St Pancras which takes an hour and forty minutes, and two trains an hour to Canterbury West which take either an hour and twenty minutes or an hour and fifty minutes. The car journey from Betteshanger to Canterbury is a 31-minute drive. This suggests that people are more likely to drive to Canterbury than travel by rail.

The travel plan refers to existing footpath and cycle routes in the area. There is no assessment of the quality of these routes. Are they surfaced and available all year round? PROW EE369, EE369A and EE370 for example are dirt tracks. The western end of PROW EE369 runs through woodland. They therefore do not make suitable/practical routes for school children, those on their way to work or attending Northbourne Parish Church or using the Church Hall. PROW EE369 and EE370 for example are unlit. Are they safe / do they feel safe for women and children to walk on their own? The footpath along Deal Road north of Sholden is unlit and in many

places looks onto open fields. These PROW do not provide safe, passable all year-round routes and cannot be relied on to be used by residents to reach nearby villages and Deal.

It is noted that the Transport Study provides an assessment of mode of travel to work. This covers a large geography that is both urban and rural in nature and includes the northern part of Deal. LSOA E01024201 which more closely aligns with the rural area around Betteshanger provides a better picture. This brings into serious question the ability to achieve the Likely Mode Split figures, and thus the aim of the Framework Travel Plan to promote a shift away from car-based travel and encourage existing and new businesses on site to move toward more sustainable travel.

The PM announced that the UK will eradicate its net contribution to climate change by 2050. A statutory instrument was laid in Parliament which amended the net UK carbon account target from 80% to 100%. The recent House of Commons Committee report in its Conclusions and recommendations encourages the Government 'to develop and act on policies to ensure that the UK is on track to meet a 2050 net-zero emissions target' and that 'it must seek to achieve this through, wherever possible, domestic emissions reduction.'. In the long-term, widespread personal vehicle ownership does not appear to be compatible with significant carbonisation. This should aim to reduce the number of vehicles required, for example by: promoting and improving public transport; reducing its cost relative to private transport; encouraging vehicle usership in place of ownership; and encouraging and supporting increased levels of walking and cycling.

The UKFIRES report Absolute Zero sets out that for the UK to achieve zero carbon emissions by 2050 road use will need to be at 60% of 2020 levels - through reducing distance travelled or reducing vehicle weight; and that total energy required to transport food will need to be reduced to 60%. The Framework Travel Plan assumes that future modal split will mirror the 2011 picture. This will not help achieve the 60% reduction in distance travelled identified by UKFIRES.

The aim of the Framework Travel Plan is "to promote a shift away from car-based travel and encourage existing and new businesses on site to move toward more sustainable travel. It provides neither evidence that it will be possible to reduce reliance on the use of cars and vans and increase the use of public transport and active travel, nor actions that the developer will take to achieve this aim or concrete proposals that will result in a change in behaviour. The proposed development makes no positive contribution to achieving governments zero carbon level targets, nor the Council's own Climate Change Emergency declaration.

4 The site is in an area of intrinsically dark skies – NPPF paragraph 180 requires planning decisions to ensure that "new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation." The CPRE Dark Skies map indicates that the site lies within an area of darker night skies. The proposed development would introduce light pollution into an area of intrinsically dark landscape contrary to the NPPF.

5 The site is in an area that is some of the more tranquil parts of the district – Contrary to para 180 of the NPPF - The CPRE Tranquillity map indicates that the site

lies between moderate and most tranquil. The proposed development would reduce the tranquillity of the area contrary to the NPPF.

6 The site is Previously Developed Land that is regenerating back to nature - The NPPF Glossary describes PDL as: "Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: ... land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape." The site has been vacant for some 30 years and not only is it being reclaimed by nature but also tree planting has been undertaken and walkways have been created for the public. The application seeks to redevelop much of the site contrary to the NPPF.

7 Open Space – CS policy DM25 Open Space resists development proposals that would result in the loss of open space. Point 2 refers to where there is a qualitative or quantitative deficiency in public open space in terms of outdoor sports sites, children's play space or informal open space the site is incapable of contributing to making it good. The site layout indicates that much of the site, excluding water bodies will be developed. This will significantly reduce the area of public open space, wildlife habitat and biodiversity opportunity area. The development will destroy all the rewilding that has taken place since the colliery closed in 1989 along with all the tree and bush planting and public paths provided through funding. It also forms part of the Miners Trail, is used as public open space and no evidence has been provided that the site has no nature conservation value. Development would result in the loss of this public open space. If the Council is minded to approve this application it will be important that there will be pedestrian, cycle and horse connectivity to the country park - and that the routes into it are protected. Horse crossing lights should also be introduced, where the button is high enough to be pushed from the back of a horse.

8 Green Infrastructure Network - CS CP7 Green Infrastructure Network seeks to protect and enhance the integrity of the existing network of green infrastructure through the lifetime of the Core Strategy. 'Improvements to Green Infrastructure Network' identifies the application site as part of a wider area for proposed network improvements. Development on the scale proposed will not help achieve this. The eastern part of the site adjoins the North Stream SSSI and housing is proposed adjacent to it. NPPF paragraph 175. There will be predator pressure and disturbance from domestic animals which along with human activity will have an adverse impact on wildlife and housing at this location would be inappropriate.

9 Heritage – NPPF paragraph 193 and 194. CS Policy DM19 Historic Parks and Gardens. The south western part of the application site is in close proximity to Northbourne Court Park and Garden (Grade II\*), within which are 5 listed buildings (ranging from Grade II\* to Grade II). The Park and garden adjoin the Northbourne Conservation Area within which there are 15 listed buildings (one Grade I, one Grade II\*, and thirteen Grade II). There are also three listed buildings at Marley Lane and three at Finglesham. Whilst the application is accompanied by a Built Heritage and Archaeological Assessment it does not appear to consider the impact of the height and density of proposed development on the setting of these heritage assets. It is therefore not possible to be convinced that the proposed development will not result in substantial harm to Northbourne Court Park and Garden contrary to the NPPF and Policy DM19.

10. Local traffic issues - 46 There is local experience that there are already holdups on the Eastry and Sandwich Bypasses. The HELAA for the site states: "Site observations suggest that the existing access road/junction onto the A258 appears to have residual capacity with limited queuing, however a development of this size and scale could have an impact on traffic flow on the A258 corridor as it would generate far greater opposing movements than are currently experienced, therefore more detailed traffic study and capacity checks will need to be undertaken to check the impact of development at this junction." The HELAA also recognises that "the proposed site is surrounded by a network of rural routes that in their current form may not be suitable to accommodate significant increases in traffic flow (without improvement)." Improvements to these rural roads is likely to adversely change their character along with rural nature of this area.

DoT manual Annual average daily flows traffic data for the A256 and A258 show that vehicular traffic has increased significantly on these roads since 2001/2002. It should be noted that the data shows that bus and coach services have reduced significantly over this period. Given the low usage of pedal cycle and public transport it is more than likely that residents of the proposed development will travel by car adding further to traffic on not only these A roads but also country roads.

11 Ecology - Limited ecological evidence has been supplied by the applicant. NPPF 170 (d) and 175 (d) respectively require development to minimise impacts on and provide net gains for biodiversity. The Environmental Bill sets this as 10% biodiversity net gain. The application does not appear to provide for a 10 per cent biodiversity gain, rather results in a loss of biodiversity. CPRE Kent's Ecologist has the following comments on the Ecological Appraisal: In our opinion, if it is necessary to survey for six different priority species on one particular site, then this would be regarded as a biodiverse site and not as described above, 'to be of limited ecological value'. Since the mine has closed this area has regenerated and been repopulated by a range of flora and fauna. Betteshanger colliery is unique in that it offers a rich diverse mosaic of habitats ranging from woodland, brownfield, wetland, grassland and ponds. This site is marked on KCCs Kent Land and Information System (KLIS) as a Biodiversity opportunity area.

Statutory Designations. The Northern most point of the site lies directly adjacent to several nationally and internationally designated sites including SSSI, Ramsar and UK BAP plus other priority grassland and woodland areas. The proposed development at its most northern point overlaps a biodiversity opportunity area which would be lost where the development to be allowed to proceed. When a development overlaps or sits adjacent to nationally and internationally important designations, the site itself then must be afforded the same considerations as if it were a SSSI or RAMSAR. SSSI and Ramsar intersect the north eastern part of the site and also lie adjacent to part of the north eastern boundary.

The Government guidelines clearly state: "If your proposal also affects a European protected site which is, or is proposed as, a SAC, SPA or Ramsar wetland, the planning authority will need to do a Habitats Regulations assessment. We see no evidence of a HRA having been completed, yet the development cannot fail to negatively affect the adjacent designations due to the proximity of the proposed development, plus no obvious regard for these sites have seemingly been considered, this is evident as very little in the way of buffer zones have been offered and the detailed plan shows intended construction on every available green space with the exception of a mown area in the centre of the site. There are a number of ways in which this development is highly likely to directly impact the protected sites.



1. Increase recreational pressure 2. Increase in light pollution 3. Increase in domestic pet predation and disturbance 4. Increase in noise pollution.

Furthermore, the Government gives clear advice about development in or near SSSIs and sites with European protection "Sensitive areas The more environmentally sensitive the location, the more likely it is that the effects on the environment will be significant and will require an EIA. Certain designated sites are defined in regulation 2(1) as sensitive areas and the thresholds and criteria in the second column of the table in Schedule 2 are not applied. The Government states. "An Environmental Impact Assessment is more likely to be required if the project affects the features for which the sensitive area was designated." Habitats and Ecological Features. The report states "hedgerows, deciduous woodland, ponds and lowland fen are considered to potentially qualify as Priority Habitats and may constitute important ecological features." However, according to MAGIC (Defra), the area referred to as W1 in the report, is listed as priority habitat. W1 and W4 are earmarked for 'some' clearance work. states, "some minor clearance works are proposed in relation to woodland W1 and at the eastern edge of woodland W4, comprising around 0.4ha in total (less than 10% of the total woodland area)". These two areas of woodland are the only two areas marked as priority habitat.

This eroding of habitats within and around the proposed site will only serve to negatively affect the surrounding designated sites as flora and fauna do not recognise humane boundaries drawn on a map and will undoubtedly migrate between areas. The woodlands, hedgerows (also a priority habitat) and newly planted woodlands together with the pond and reed bed serve to enrich this area and compliment the designated areas. It is important to consider Betteshanger colliery holistically and not each micro habitat in isolation.

According to the Ecological Appraisal there are protected species surveys outstanding or in the process of being completed, we look forward to reading these reports with interest. These include: Bat; Badger; Water vole; Great crested newt; Reptile; Invertebrates We also look forward to a full botanical survey. Pennyroyal is Critically Endangered on the England Red List and was an 'original' BAP species with a Species Action Plan and is also Schedule 8. Lizard Orchid is Near Threatened on the GB Red List, is Vulnerable and Near Threatened, according to Plantlife and is Schedule 8.

Further comments: We have already responded in detail why turtle doves, Britain's smallest dove, are in such drastic decline and wish to add further comment on this subject. One of the reasons we highlighted was habitat loss as a direct result from human encroachment and development.

We recognise that Aspect ecology has stated that woodlands 1 & 4 are to be fully retained and this is to be welcomed. However, the likely reason Turtle doves have chosen Betteshanger as a suitable nesting area is not simply due to tree canopy and available nesting sites. Whilst canopy and scrub are important factors for turtle doves, they are one of a number of suitable habitats types that are sought by this now extremely threatened and rare species.

Food and habitat shortages in the UK are two of the most important factors in these birds decline. A good canopy ticks one box, but food resources are still a major issue and it is this latter reason that turtle doves are likely to have chosen Betteshanger to be a suitable place to breed. Betteshanger boasts a unique open mosaic habitat. Turtle doves are predominately granivorous (seedeaters) and are primarily ground feeders, so to access the seed successfully from the ground, turtle doves need

sparse and low vegetation, typical of the type of flora found in and around quarries and abandoned mines.

In Europe and the UK alterations in the quality and type of habitat have been linked to the reduction of the number of breeding birds. Turtle doves generally nest in bushes, trees, and mosaic habitats with sparse undergrowth, exactly the type of vegetation found on old mining sites such as Betteshanger colliery. This helps to explain why Betteshanger is so special and unique and has been chosen by several pairs of this rare bird as an ideal area in which to safely, and successfully, breed and return to year on year.

It is not simply nesting sites that have attracted these birds to Betteshanger, it is also the mosaic habitat utilised for feeding purposes, the very habitat that will be destroyed and covered in housing, were this development to go ahead. Therefore, it is not enough to preserve the woodland and some of the scrub in isolation, as it is the site as a whole that needs to be protected in perpetuity.

Furthermore, CPRE Kent has previously highlighted domestic cat predation as a high risk to the survival of the turtle doves on this site and being ground feeders, this makes them especially vulnerable along with intensified human and dog disturbance, noise and pollution/poisoning from the likely use of insecticide and herbicide that may be used in gardens and any ground management carried out.

Sandwich Bird Observatory: The observatory can confirm the site has Turtle Doves present. I have seen small numbers of this nationally threatened species at the site myself and we also have supporting evidence. Bearing in mind the national status of the species, for that reason along the Observatory lodges an objection to the development proposed. We also wish to point out the importance of conserving any area of land in the highly intensive farmed area of East Kent that is in the process of rewilding itself, especially were, as in this case, the area is adjacent to residential area. The site thus lend itself to being both a wildlife reservoir and as well as an important local amenity.

Northbourne Parish Council: resolved to object to this development on the grounds of density of development, social impact and a strong desire to preserve the character of the Parish. After careful consideration of the revised environmental mitigation measures proposed by the developers, the decision stands. The position of the PC remains the same as they fundamentally object to this potential development and as part of this view are also taking into consideration the strong feelings of local residents and consultees who are concerned not only about the social and traffic impact on the Parish, but also about the environmental impact that development will have on local wildlife habitats.

Deal Town Council: strongly objects - There are serious environmental issues to be addressed as raised in the EHOs report and we request that a complete independent ecological assessment is carried out. There are far more suitable brown field sites available and the North end of Deal has already undergone large developments in recent years.

This development will have major impact on local amenity, infrastructure, and traffic. A development of this scale should have more than one point of access as alternative surrounding roads are rural routes, the amount of traffic that would increase will have an impact on the main route in and out of Deal as pointed out in the KCC Highways document.

Proposed land needs to be conserved due to being a wildlife reservoir (as stated in Sandwich Bay Bird Observatory)

Public consultations from the developer need to be put in place prior to any decisions being made to enable any concerns/issues to be raised. Object as the developer has not had the opportunity to arrange or present a detailed public consultation prior to submitting the application.

Object - we feel it is too large in its current form and have a negative impact on the highway and environment. However, as previously proposed would welcome the opportunity to discuss flexibilities within the proposal. Would both fully support and recommend a public consultation by the developer.

Object – we feel it is too large, is within a flood plain, will have a negative impact on both the environment and highways. Also, concerns were raised about the proximity of the site to Pit Head and the removal of established trees.

Sholden Parish Council: objects. There are numerous breaches of Local Plan and NPPF policies. In addition, SPC fully supports the objections raised by Northbourne and Worth PC, the objections from the members of the public and the case for refusing planning permission made by CPRE.

The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 is the adopted development plan. Decisions should be taken in accordance with the policies in such plans unless material considerations indicate otherwise. Policy DM1 states that development will not be permitted outside the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The potential Betteshanger Grove site is located outside the defined settlement confines (and is not supported by other development plan policies and is not ancillary to existing development or uses). As such, the application is contrary to Policy DM1.

Policy DM11 is also breached, the proposed development is outside the settlement confines. In view of the distances of the proposed site from the nearest town centres and their amenities/facilities (shops, recreational facilities, beaches, medical facilities, schools, waste recycling etc.) it is most likely that the occupants of the development would be reliant on the use of a car or cars to travel to reach all these necessary day to day facilities and services. Car travel will especially be increased by the bisection of the Miners Way. Because the development is not justified by other policies, the development is contrary to Policy DM11 – the generation of high vehicular travel outside confines. Others have stated, with evidence, that there are neither reasonable nor realistic alternatives to car travel available to the future residents.

Policy DM15 (applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of its exceptions criteria). Policy DM15 resists the loss of countryside (i.e. the areas outside of the settlement confines) or developments which would adversely affect the character or appearance of the countryside as well as not resulting in the development losing ecological habitats. But a potential development of this size can only result in the loss of countryside.

In anticipation that paragraph 11 of the NPPF is invoked, SPC respectfully refers Members to the High Court Judgement (Gladman Developments Ltd Vs SSHLCG & Corby BC & Uttlesford DC [2020] EWHC 518 (admin)). In that Judgement, it is our

understanding that Judge Holgate concluded that paragraph 11(d) (ii) of the NPPF did not exclude consideration of development plan policies in favour of the “tilted balance”. In essence, Members can give weight to Policies DM1, DM1 and DM15. In addition, Paragraph 177 ensures that the presumption in favour of sustainable development does not apply when proposed developments impact on Special Protection Areas, Ramsar sites and possible Special Areas of Conservation. Without the evidence of an EIA this proposed development does just that.

Notwithstanding that SPC considers that permission should be refused on breaches of adopted Local Plan policies alone, it would be unwise not to consider NPPF policies. Thus, in terms of the tilted balance, if the NPPF is active its policies should be given significant weight in decision making. In this application there are numerous conflicts with the material considerations of the NPPF.

Paragraph 6 of the NPPF states that “Other statements of government policy may be material when preparing plans or deciding applications....”. The government has quite clearly stated that planning applications should have minimal conditions. This application, should it be granted, has the potential for many conditions thus conflicting with not only paragraph 6 of the NPPF but also paragraph 55: “Planning conditions should be kept to a minimum....”. In addition, central government has said that the views of those affected by the proposed development should be taken into consideration.

Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 identifies that achieving sustainable development means that the planning system has three overarching objectives, all of which should be interdependent and therefore need to be pursued in mutually supportive ways. These are:

- (i) an economic role - Unfortunately, because of the current pandemic both nationally and locally (loss of jobs at Dover port etc.) there is no evidence that either the number of dwellings or business area of the proposed development will be occupied in the foreseeable future.
- (ii) a social role - As above, unfortunately there is the distinct possibility that the whole proposed development, if permission is granted, could become an uninhabited blight on the landscape that could rapidly have a negative impact on the surrounding communities.
- (iii) an environmental role - Alas, because of (i) and (ii) above that is not going to happen.

Paragraphs 10 and 11 of the NPPF deal with the presumption in favour of sustainable development. As detailed above the adopted Local Plan are active and thus the “tilted balance” is inactive. In addition, the application of policies in the NPPF (should the tilted balance be applied) when related to this development, protect areas and assets of particular importance and thus will provide clear reasons for refusing the proposed development. That is, there are many adverse impacts that significantly and demonstrably outweigh the benefits of this development when assessed against the policies in the NPPF.

Paragraph 91 states that planning policies and decisions should aim to achieve healthy, inclusive, and safe places which promote social interaction, safe and accessible neighbourhoods and enable and support healthy lifestyles. Unfortunately, at present none of those virtuous places can be guaranteed by either conditions or Section 106 agreements quite simply because no one knows the economic and social impact. In addition, for cycling and walking, the current Miners Way (which

would be the main route of cyclists and walkers) will be bisected by the proposed development. Members should note the details of the Kent Police letter. Kent Police have some serious concerns about this application and SPC is unaware that these have been addressed. As such, the application breaches NPPF paragraph 91 b.

The applicant has submitted a comprehensive TA. The size of such an exercise, whilst on the positive side seeming to exercise due diligence, on the negative side, quite clearly indicates that the applicant has serious concerns that its proposed development may conflict with paragraphs 109 and 110 of the NPPF. Residents both within and without the proposed development area have further transport concerns on increased traffic movements in the outer road areas, particularly (i) Upper Deal Roundabout and (ii) extra traffic through Sholden. In addition, there are serious concerns about additional vehicular movements caused by increased regular school attendance. Further to that, SPC notes that there is also the possibility of traffic holdups on the Eastry/Sandwich By- Pass. Conflicts with paragraph 110 (pedestrian and cycling movements). Bus transport is also a subject of contention (110 a).

The DDC 2020 HELAA is quite clear on the transport/traffic issues that this proposed development will bring. As above, these concerns would warrant refusing the application because of the unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 127 details how planning applications should ensure that the proposed development will (amongst other things): (i) add to the overall quality of the area and be visually attractive (ii) be sympathetic to local character and history... (iii) create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. The proposed development is highly likely not to evolve (economically, socially, or environmentally) as planned, even though it is only an outline application and as such conflicts with Paragraph 127.

Paragraph 175 (and other paragraphs of Section 15 of the NPPF) states, inter alia, that when determining planning applications, the local planning authorities should apply certain principles:

(a) if significant harm to biodiversity resulting from a development cannot be avoided...or adequately mitigated or, as a last resort, compensated for then planning permission should be refused.

(b) development on land within or outside of a SSSI and which is likely to have an adverse effect on it (either individually....) should not normally be permitted.

Members when considering this application, will be aware of the vast amount of ecological expertise from the local community and beyond. Five of the key points are listed below and in and of themselves constitute significant harm to, and adverse effects on, the biodiversity resulting from the proposed development. Thus, the proposed development will not protect sites of biodiversity value, will conflict with Paragraph 170 a) and therefore planning permission refused.

(a) the proximity of the development to the Thanet Coast and Sandwich Bay RAMSAR site and the Sandwich Bay to Hacklinge Marshes SSSI. These sites are among the most important for nature in the UK. Their urbanisation is recognised by DDC as being likely to cause a 'significant adverse effect'.

(b) the Sandwich Bay Bird Observatory is quite clear in that the development will seriously impact a rare and endangered bird.

(c) there are reports that the rare lizard orchid exists on the development site.  
(d) Overall, the proposed site will decimate a flourishing, ecologically diverse re-wilded natural area which neighbours other key ecological sites.  
(e) there is now an extraordinarily strong claim for a formal, independent EIA.  
Another issue is that ecological reports tend to look at issues specific to the area to be developed. As Members will be aware, there are, in the vicinity of the proposed site, other major developments (proposed and agreed). As the CPRE say this is important as one must look at the cumulative effect on nearby protected sites. Proposed developments should not be considered in isolation. An EIA will give a better-informed holistic view of the area.

All the above cannot but lead the Decision Makers to refuse planning permission. The evidence of conflict with Local Plan Policies of the CS and NPPF is overwhelming. There are two holding objections and no evidence of mitigation. Other statutory consultees have reservations of such a serious nature, that many conditions are being requested. In addition, there are many members of the public wanting the application refused.

KCC Highways letter says that there is extant permission on the site. It has confirmed as "DOV/02/00905 for B1, B2 and B8 uses on the site, confirmed as extant by the Planning Authority". SPC would challenge that there is any extant permission or predetermined permission on this land. The current outline application is for 210 dwellings. 20/00419 bears no relation at all to DOV/02/00905. There are statutory time limits on extant permissions. All of which have expired.

We are also aware of "Saved Policy" AS1 – this clearly indicates that the land and area is not suitable for the proposed development. There is no record that this "Saved Policy" is out of date or redundant. It therefore follows that the application should be refused on AS1 alone.

We also note that there is a petition on the portal which has only been counted as one objection. It contains hundreds of objections. That is important as it engages NPPF 9: "Planning Policies and decisions should play... but in doing so should take local circumstances into account to reflect the character, needs and opportunities of each area".

Worth Parish Council: opposed to the proposed development of Betteshanger Grove (formally Fowlmead Country Park). Proceeding with the application based solely on the environmental study carried out on behalf of the developer, is unethical. A completely independent ecological assessment needs to be carried out before any movement towards approving this application. Betteshanger Grove is a site that has been, relatively recently, rewilded. Whilst the site is already supporting rare and endangered species it is minuscule compared to what it could support if the site is allowed to mature, as was originally planned. The future habitat that Betteshanger Grove will become and it's greater potential for supporting a diverse range of birds, plants, and invertebrates should also be taken into consideration.

This development would be the "tip of the iceberg". Once residential housing has gained a foothold on this beautiful site further development would inevitably follow. There must be brownfield sites that could be developed before allowing the sprawl of urbanisation to join Deal and Sandwich together.

Public Representations:

A total of 182 objections have been received to date this includes a petition with 3000 signatures objecting to the proposal. These are summarised below:

- Impact on neighbours
- Don't need more houses in rural areas
- There are no primary schools nearby
- Adverse effects on designated sites adjoining the proposals
- CS HRA identifies potential harm from urbanising effects
- Damage to designated sites through increase use of public footpaths and access
- Increased water pollution from the site affecting the designated sites
- Unacceptable recreation pressure of the ecological designations, houses are too close
- The scheme should use ground source heats pumps etc
- The ecological surveys submitted are unacceptable and of a poor quality
- Established trees are being lost on the site and should be retained
- How can 10% biodiversity net gain be achieved when wildlife is being destroyed
- It sets a precedent for a pattern of development that offers no evidence of being sustainable and could lead to unplanned/unacceptable expansion of the surrounding rural area
- The development is out of keeping in the rural environment, too big and will dominate a rural parish
- There will be a huge increase in noise and light pollution
- The site has amenity value for the local community
- Houses are being proposed on contaminated land
- Deal needs employment opportunities and jobs for the local community
- There are no jobs in Deal and few opportunities
- There is little public transport to service the proposed development
- Footpaths and cycle links to the site from Deal are required
- Biodiversity and the landscape should be the key considerations
- Deal congestion in the local area will only get worse
- Housing on the site needs to be affordable/social
- High levels of pollution and potential mine shafts on the site it is not suitable for housing
- Potential noise to homes facing Intercrop, generators operate 24 hours a day
- There will be impact on local footpaths
- Half the number of houses proposed would be more suitable, quiet village life no longer, it will ruin our village community, leave it alone
- Kent is supposed to be the garden of England
- Deal doesn't have the infrastructure for more housing
- People can't afford the houses that are being built
- Crime and anti-social behaviour will increase
- Why is Sholden taking so much new development
- The road network needs to be improved
- The site should be retained for employment or retail uses
- The area will lose it's community spirit and will ruin the town and rural areas
- Local people do not benefit, they are not built for locals or young people of the area
- The Betteshanger site has been re-wilding over the 30 years since the colliery closed and SEEDA planted 140,000 trees at public expense

- The presence of turtle doves reflects the early success of this regeneration scheme which was sponsored by central and local government. It will hardly be enhanced by the proposed development
- NPPF says that LPAs should 'identify and protect tranquil areas that have remained relatively undisturbed by noise and are prized for their recreational and amenity value'
- DDC should require more green and carbon neutral features
- Toxins could leach from the site through its development
- Dealing with contamination could result in more landscaping and wildlife destroyed
- Increased drainage issues and flooding from more impermeable surfaces
- Commercial uses aren't acceptable on this site
- There will be loss of habitat and will no longer be the amenity for local people to walk and enjoy the wildness of it.
- There will no longer be a thriving wildlife community including threatened and rare species
- Lack of medical facilities locally and lack of funding for them
- More development in the countryside
- Historical and local interest of the site will be lost
- Added strain on existing utilities, schools and GP's etc.
- All car parks in Deal are full
- The highway capacity is already struggling to cope with queues at peak times
- Existing problems should be fixed before adding more houses
- The site is well used by families, dog walkers and cyclists
- The site should be left unused and let nature thrive
- Hedges and trees have already been cut during the nesting season
- The public park on site isn't maintained now
- The site should become a nature reserve
- The site is locationally unsustainable and DDC have stated this in the local plan
- Rural lanes are used for rat running already affecting locals and the horse riders, walkers, cyclists and school children who use them
- Penny Royal is a schedule 8 plant protected under the terms of the Wildlife and Countryside Act of 1981. It is found between the road and the sewage treatment works at the edge of an area of scrub and a second patch to the right of the sewage plant gates under a poplar tree. This is the second schedule 8 plant to be found on the site, the other being grass poly. What steps will be taken to ensure the protection of these plants
- A lichen survey of the Betteshanger site is necessary to fully establish the biodiversity interest of the site
- The environmental impact that this development could have - leading to the loss of habitat and the destruction of rare flora
- Rich biodiversity of fauna and flora found on site and the urgent need for precautionary protective measures
- The site needs preservation not destruction a space for now and for future generations
- The site is designated for employment use and this should be upheld
- Northbourne is a designated rural hamlet and should be maintain as such
- Areas downstream will be further affected by flooding even with SuDS proposals
- DDC initiate their own EIA to highlight the naturally evolving biodiversity of this land, site and wildlife habitats



- The impact on Middle Deal Road is not assessed, Deal needs a relief road rather than additional measures on London Road that will not be effective
- Passive house standards should be applied
- A full EIA should be required for this development
- Reduce the number of buildings and residential dwellings
- Protect all the trees planted (which are starting their life as carbon-sinks)
- Subsidise 3 years of public transport to mitigate the traffic impact on an already congested town
- Put in an all-weather foot + cycle path running between the Miners' roundabout, through Fowlmead, with footbridge over railway line to North Deal
- Need a contractual agreement on the completion of the mining museum and the recreational and environmental enhancement of Betteshanger Country Park
- Full and thorough ecological surveys need to be undertaken
- Many bird habitats are also protected and LPAs have a duty to conserve their biodiversity
- What is planned will threaten the lives of many animal and plant species
- Some important plant species have already been damaged by careless or deliberate mowing
- The list of flora and fauna is long and demonstrates that this piece of land is of huge importance
- DDC has declared a Climate Change Emergency
- Biodiverse and wild places such as this should take centre stage in mitigating the effects of climate change
- The proposed development will destroy this precious environment through noise, light, human presence and the carbon pollution of emissions from vehicles, boilers, etc.
- There are no social amenities provided in this development. Residents will use their cars putting pressure on the road networks.
- Heavier use of surrounding country roads must be avoided and will undermine the existing character of the rural environment and nearby villages
- Most of the houses in the proposed development are for 3 and 2.5 storey houses which would obstruct views and be out of character with the surrounding environment
- Priority species are those considered to be the most threatened and requiring conservation action under the UK Biodiversity Action Plan
- Ecological Appraisal has identified 10 priority bird species, 6 on the red list and 4 on the amber list and there is no evidence of how the plan will promote and protect these species. The plans show that territories and nesting sites will be destroyed by the removal of trees
- When SEEDA planned the Business Park, the lakes were designed as reed beds Sewage Systems, a sustainable way of dealing with water runoff. No mention is made of the Delf stream system, the springs nor the sewage system. They should all be considered in the planning of the area. The importance of water quality and high levels of chloride in the water are due to the output of water from both Betteshanger and Tilmanstone collieries
- More cars more air pollution. Dover already has dangerous levels of air pollution
- KCC is fighting to maintain services with an increasing local population
- The lack of employment in this area will be added to by further housing
- Dover have areas of social deprivation due partly to unemployment

- Re-wilded area that was developed as such over 30 years (and given substantial seeda support) should not be allowed to become a residential area
- We do not need more traffic and housing developed on beautiful countryside and wilded habitats
- These areas of Wild land are a green space full of plants and wildlife which thrive as do many other locals whom enjoy time in these spaces
- This is the only local place where those with disabilities can access wildlife with relative ease and is of great importance to the disabled community
- This doesn't help the governments future efforts to lower air pollution
- Sholden Primary School is adjacent to the A258 this will be detrimental to children's health
- Outer road network and parking in Deal has still not been resolved from the last local plan
- Quinn have made their intentions clear that their plans will not change to accommodate the wildlife, natural habitats, and range of protected species no matter how rare
- SEEDA created, designed and planted the wildlife corridors & allowed the land to develop its own rich biodiversity and has become an open mosaic landscape
- It provides shelter to numerous protected species, all listed, evidenced in detailed reports and surveys undertaken on the site, by local groups
- It will be impossible to uproot woodlands, relocate plants, butterflies, newts, ponds, rare birds, all creatures most of whom are listed as protected species and it's against the law to do so. Mitigation and relocation to an adjoining location, environment and habitat without loss, harm and disruption would be an act of vandalism for wildlife, nature
- Saved policy AS1 still applies to this location. It states " in location terms the site is unsustainable " this is a statement of fact, as applicable in 2020 as it was in 2010
- The only factor that is sustainable on this site is the rich biodiversity, natural habitats and green spaces to allow, protect and provide species on the site
- A housing estate and commercial use would destroy the culture and environment of this rural hamlet and a valued green space
- DDC's own sustainability scoping report says under biodiversity that the objective should be to "conserve, connect and enhance the districts' wildlife habitats and species". This development would be contrary to that
- All biodiversity is critically important in preventing climate change and any planning decisions now need to focus on this
- DDC overruled the recommendation of their own Officer, in the favour of the developer and doesn't consider the community needs
- We need to retain sites like this for our future, for our health and wellbeing
- The conflict is a reflection of what is happening globally, little pieces of land that were once a haven for wildlife are being lost and these many pieces of lost land are now adding up to something significant
- This site which is classed as a 'priority habitat' must be preserved at all costs
- Men lost their lives at Betteshanger Colliery, should be left as a shrine to them
- Paras 148-9 of the NPPF identify climate change as an issue
- Not an allocated site and outside confines
- Contrary to planning policies inc. ecology
- Site is of county level importance and forms a key component of the ecosystem
- Plants on the site are listed on the Kent Rare Plants Register
- The site is of such ecological value that it should be saved from development

- To grant PP would be against DDC's statutory duty to conserve biodiversity
- The proposal will result in irreparable damage and destruction of species and habitat that will not be compensated for on the country park
- Invertebrate survey is incomplete and based on development platforms
- Compensation at Betteshanger Park does not result in net gain for biodiversity and no botanical or other survey has been undertaken to establish its value
- The ecological value of the site has been downplayed throughout
- Proposals for Turtle Dove habitat are inadequate and bird species have already disappeared from the country park due to disturbance
- PP would be against para 174 of the NPPF
- The duty to protect this site should take priority
- The site is protected under planning laws
- This site should be designated as a local wildlife site to enhance and protect its value
- Overdevelopment of the site
- Site is liable to flooding
- Why is the payment for off-site recreational sport focused at Betteshanger when DDC Playing Pitch Strategy sets out Walmer Cricket Club as in need of funding for this provision
- If the strategy has changed why haven't Walmer Cricket Club been consulted
- Site should be used for renewal energy
- One of the UK's rarest plants is on the site
- Kent Biodiversity strategy needs to be taken into account, key target is habitats on brownfield sites. How does this protect and recover protected species, enhance wildlife habitats that are important to Kent
- Turtle Doves use development platforms for feeding
- Site is a carbon sink
- Tress should be protected by TPO's
- Development will affect local ecosystems
- East Kent Badger groups weren't consulted
- Impact on badger has not been fully considered
- The site is of national ecological importance and valuable for its biodiversity contribution
- Compensation is not a substantive replacement for the lost biodiversity
- Children unsafe journey to and from school
- All dwellings should be carbon neutral
- Both the application site and compensation site will be damaged and biodiversity lost
- The mitigation and compensation schemes proposed are to persuade us that the effects on wildlife have been minimised. However, if houses are built, the result will be a whole ecosystem disrupted, habitats ruined and species threatened and destroyed.
- The compensation scheme will destroy protected plants this isn't acceptable
- A proper ecological survey of the compensation site has not been undertaken, existing habitat will be affected

- Betteshanger country park already supports a wide pollution of species, how will these be affected?
- Removal of existing habitats is not acceptable
- This is not a compensation scheme
- The off-site scheme needs to be identified
- Destruction of this site is contrary to DDC's Climate Change Strategy
- Planning should protect protected and threatened species, priority habitats
- Trees should be protected by TPO's

A petition with approximately 3000 signatures has been submitted but no details have been provided regarding the petition or on what grounds it was being signed. Previous correspondence would suggest that it relates to a request for an independent EIA to be undertaken. A large proportion of the addresses were from across the UK and international addresses including a significant number from India.

Other organisations objecting to the proposal:

The Deal Society: Objects. Neither the current Local Plan nor the developing one has demonstrated that Deal has the infrastructure to sustain large housing developments on its urban boundaries. Deal has taken the brunt of delivering new housing development in the last 10 years in the district. The application lacks sufficient environmental impact assessment. The proposed development is an incursion into the rural landscape and an unwelcome intrusion. If Planning consent was to be considered the most stringent Section 106 agreements must be delivered for the completion of the Visitor centre and Mining museum. It is questionable whether the proposed housing really meets the social and economic needs of Deal in a period of acute economic downturn following the pandemic crisis and the severing of ties with EU.

Botanical Society of Britain and Ireland: object on the following grounds:

The great botanical interest as can be seen from the number of vascular plant species recorded recently on the site and which reflect a remarkable mosaic of habitats. These have developed over the last thirty years and continue to develop. Early successional communities on the thinly vegetated shale consist of a number of very interesting plants not least of those is Wall Bedstraw which occurs across the entire area marked for proposed development. Wall Bedstraw is listed Vulnerable on the UK National and England Red Data list. The same applies to Grass-poly a Schedule 8 species of the Wildlife and Countryside Act 1981 and which has its only Kent occurrence at Betteshanger. The presence of these two plants alone make the site of great botanical interest. Notable conservation status is also shown for a number of other species.

The site conforms entirely to UK BAP Priority Habitat Description for Open Mosaic Habitat on Previously Developed Land with all five of the defining criteria met. Under Criteria 3, early successional communities are indeed composed of (a) annuals and the grasses, (b) mosses and (c) lichens, (d) ruderal communities, (e) seasonally flooded areas, (f) open grassland, (g) flower-rich grassland. Under criteria 5 The mosaic or range of contiguous plant community types do indeed merge into one and other throughout the site where bare ground merges with grassland, species rich banks and damp winter-flooded areas and wetland habitats. It seems to me that the entire BAP description for this habitat has been written for this site.

Brownfield sites such as Betteshanger need protection. The impoverished nature of the substrate and its open, free-draining nature encourages great species diversity. Such habitats are a rarity in the nutrient-rich landscape of much of East Kent. There is great interest and educational value to be had in monitoring their progress and development and no amount of mitigation could replicate or replace this. I am concerned by the proximity of the proposed development to the SSSI and the potential for a pollution incident from proposed development. The site is of obvious value to local people for recreational purposes and enjoyment of its flora and fauna.

Buglife: objects on the following grounds:

Potential impacts on an important invertebrate assemblage; Inadequate assessment of the ecological baseline and potential for losses of Open Mosaic Habitat on Previously Developed Land; Inappropriate mitigation strategy.

The application site contains historic records of a number of threatened and scarce invertebrates, including records of species now identified as either Vulnerable, Near Threatened or Endangered in modern species status reviews. The site also has the potential to support invertebrate identified as priority species under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. The 2002 invertebrate surveys identified a high value assemblage, with notable species of spider and beetle, including *Phlegra fasciata* (Near Threatened), *Xysticus luctuosus* (Endangered), *Ozyptila blackwalli* (Endangered), *Trochosa robusta* (Vulnerable) and *Ochrosis ventralis* (Vulnerable). Since then the site has undergone remediation which will of course have significantly altered the habitats on site, however, it still remains essential that an invertebrate survey is undertaken as their absence simply cannot be presumed. Without a survey, we don't know which of these species of conservation concern are still found on the application site, so the biodiversity value of the site cannot be accurately assessed. The application site is also within the Kent Coast and Downs Important Invertebrate Area (IIA). IIAs are nationally or internationally important areas for invertebrates and the habitats on which they rely, developed using strict criteria, expert advice from recording groups and statutory bodies, and based on nearly 50 million records from over 85 different invertebrate recording groups. The IIA in question has yet to be fine-scale mapped, but many of the species associated with the broad-scale map are associated with brownfield habitats such as those found on the application site.

Buglife would also like to query the habitat assessment. Aerial imagery and descriptions of the site indicate that the site has the potential to qualify as Open Mosaic Habitat on Previously Developed Land (OMHPDL), a priority habitat under Section 41 of the NERC Act. Although it is unclear if the site meets all of the necessary criteria to qualify, this would drastically alter the perceived value of the site, so a specific assessment or survey for OMHPDL should now be undertaken, in line with the response from Kent Wildlife Trust. The value of OMHPDL lies within tight mosaics of habitats, which provide a diverse range of habitats in close proximity. However, the Ecological Appraisal has assessed the individual habitat parcels in isolation of relatively low value rather than as a diverse mosaic of habitats which have a high value in combination.

Without the appropriate invertebrate species surveys and an assessment of the presence of OMHPDL on the application site, it is not possible to either assess the current ecological value of the application site nor the impacts of the development to an acceptable standard. This also makes it impossible to design a fit for purpose mitigation or compensation strategy, which must be informed by appropriate surveys.

At present, there is insufficient information for a decision to be made and a significant risk of net biodiversity loss, against the principles of the NPPF. Paragraph 170 - The current proposals have the potential to significantly impact a priority habitat type and important invertebrate assemblage, thus leading to considerable biodiversity losses. It is certainly not possible to propose any potential net gains without adequate assessment of the site's biodiversity interest. Paragraph 174 -The current proposals include the potential loss of OMHPDL which would represent a clear loss of biodiversity, as opposed to the measurable net gain required to meet the NPPF.

Buglife is of the view that at present the application fails to meet the requirements of the NPPF, due to the potential unacceptable losses of biodiversity, inadequate information and subsequent inability to ensure that there is a robust mitigation strategy and urges DDC to reject this application.

Plantlife: submit an objection to this application as it will cause unacceptable damage and destruction to important and protected populations of rare and endangered wild plants. Plantlife is the British conservation charity that works nationally and internationally to save threatened wildflowers, plants and fungi. We own nearly 4,500 acres of nature reserve across England, Scotland and Wales where you can find over 80% of the UK's wildflowers. Our team of dedicated conservation experts save our rarest flora and ensure familiar flowers and plants continue to thrive. Plantlife has extensive experience in practical conservation management, including translocations and reintroductions of rare plants, and habitat creation.

Plantlife shares the concerns raised by the council's Senior Natural Environment Officer and other local botanical experts that the proposed development will result in the loss of an extraordinary diverse range of wild plants, including important populations of Schedule 8 protected species Grass-poly, Lizard orchid and Pennyroyal.

It is our professional opinion that the proposed mitigation plans are inadequate and will not be successful, resulting in the loss of this rare plant diversity. As so much of Kent and the UK's wild plant diversity and abundance has already been lost, we urge the council to reject this application and protect the important biodiversity on this site for future generations.

13 representations have been received in support of the proposals and are set out below:

Many of the objections to the scheme have been in regard to the impact this development will have on the local flora and fauna. In response to those concerns Quinn Estates commissioned an independent in-depth study of impact on the wildlife, this identifies appropriate mitigation and compensation measures to ecology and aim to minimise their impact on the surrounding natural environment.

The local housing need in Dover district is exceeding the current supply, with inadequate numbers of homes available, but also too few at an affordable rate. With this new development, including 30% affordable housing, the need for housing will be one step closer to being satisfied for all of those with varying incomes, helping to create a safer community. The site has not come forward over the last two decades for the development envisaged by its allocation, yet this will finally utilise this land for the development of something the local community needs, not only by increasing the housing supply and creating jobs but also due to the revenue it will generate for the local area.

This development will increase usage of the community park. The park will generate revenue that will in turn be used to develop the vitality and vibrancy of our local businesses and community spots, including our Betteshanger Social Club. Therefore, we are fully in support of this development and the additional benefits it will bring to our local community.

- 30% affordable housing on the site
- Creation of in the region of 200 new jobs attached to the new office start up units being built
- Significant and ongoing work for local builders at a time when there will have been a major downturn in their work
- 12 self build plots
- A local shop servicing all local residents

The developers have already taken on the responsibility of cleaning and looking after the ponds on the site and full support in maintaining and improving local facilities for the new and existing community. There is an existing miners social club adjoining the site. Quinn have undertaken to safeguard a parcel of land abutting the club as part of the open space for the community. This club would benefit from the arrival of a significant number of new residents and hopefully members. The developers have undertaken to complete the mining museum and further develop the social and recreational aspects of Betteshanger Country Park. This again will offer additional local employment as well as being an area that can be enjoyed by the wider community. This whole area that was once the colliery site has lain dormant for too long and the potential for an exciting development and vibrant community may at last be put into motion.

Other supporting comments are that it is a good scheme, site should be put to a use, it is a brownfield site, site has no aesthetic merit and Hadlow were proposing halls of residence for 2000 students.

Three letters of support from local amenity societies who use Betteshanger Country Park have also been received identifying the additional benefits of funding at Betteshanger Country Park and Mining Museum as a result of this development.

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

- 1.1 Background - In 2004 (17.08.2004) a hybrid planning application, ref: DOV/02/00905, was granted for the erection of Class B1, B2 and B8 business, industrial and warehousing units, creation of community park and country park, erection of visitor centre, construction of recreational cycling facilities and sculpture park and construction of water treatment facilities, access roundabout, roads and car parking facilities for the whole of the Betteshanger Colliery site, which includes the country park (north of the Sandwich Road and outside this application site) and the former colliery site itself (the current site area). The application was partially implemented, and the works completed included site infrastructure and highways works to both the Country Park and former colliery site, including the construction of the roundabout junction on the A258. Other works included land profiling, planting and structural landscaping to both sites and works to the country park site for the creation of pedestrian and cycle paths and BMX track. The permission contained pre-commencement conditions specific to the infrastructure works that were all approved or discharged in 2009. Implementation of this planning permission means that a form of development on

the site has been carried out. However, Reserved Matters application(s) for the business/commercial buildings were not submitted and the timescale for those submissions has now expired. Nevertheless, the application site has been enabled for development including the construction of the roundabout serving Colliers Way, access roads, all utilities, drainage, landscaping and tree planting, public footpaths, street lighting and the formation of development parcels. These works were undertaken by the South East England Development Agency (SEEDA) including decontamination and remediation, but the Masterplan for this element of the site has not been realised.

- 1.2 In July 2017 permission was granted for a new incubation building (B1, B2 and B8) with ancillary café (A3) to be located to the north east of Almond House. This was a row of three storey units sited adjacent to intercrop (to the north) that was still valid when the current planning application was submitted last year. This scheme was in the same location as the commercial units now submitted as part of the development of this site.
- 1.3 In 2018 an application for a winery building was approved on land to the south of the existing access road into the larger site and associated car parking in proximity to Almond House. This permission is still valid and could still be implemented.
- 1.4 Description - The application site is approximately 2.5 miles to the north west of Deal and 3.5 miles to the south east of Sandwich. The site lies within the parish of Northbourne and adjacent to the parish of Sholden. The site is accessed via Betteshanger Road from the roundabout junction with the A258 Sandwich Road. It forms part of the Betteshanger Sustainable Parks (BSP) development area located between Sandwich and Deal. This was the former Betteshanger Colliery which closed in 1989. The area covered by the BSP is vast and covers land on both sides of the A258 forming a total of 148ha. The Betteshanger Country Park was the spoil tip and lies to the east of the A258 and the former colliery pit head lies to the west and forms this application site. The mine shafts have been filled and capped and lie in the existing park located immediately to the south west of Almond House. The main site lies principally to the south and east of Almond House which is an existing yellow stock brick, three storey, commercial building that formed one of the original colliery buildings. The site comprises a parcel of land of 21.27ha in size that includes Betteshanger Access Road and access links through to Broad Lane.
- 1.5 The site sits within a rural setting with arable farmland surrounding the site to most boundaries and has long range views to Sandwich Road. To the north, and at a higher ground level, is the former miners housing forming Circular Road which are predominantly semi-detached. Betteshanger Road links through to Broad Lane which includes some detached dwellings and is a rural road. There are a number of agricultural/commercial structures directly to the north of the site run by Intercrop, with Almond House used as offices falling within the application site. Also, on the northern boundary is Betteshanger Social Club and associated land and an electricity sub-station. In the wider local area there are a number of small settlements including Betteshanger, Northbourne, Finglesham and Little & Great Mongeham.
- 1.6 To the north east of the application site and extending across the existing Betteshanger Road is the Sandwich Bay to Hacklinge Marshes SSSI with the Special Protection Area and Thanet Coast to Sandwich Bay Ramsar designations further to the north east. Flood Zone 2 & 3 also cover a similar area, although the



rest of the site including the developable area is in Flood Zone 1. The area is characterised by a network of drainage ditches and streams (including North Stream) interspersed with ponds and fishing lakes. Northbourne Court is Grade II listed park and garden and sited approximately 500m to the south, a former monastery used as a care home it is sited within an undulating landscape and separated by Northbourne Ridge and tree planting.

- 1.7 The site contains an existing access road (Colliers Way) off a roundabout junction on Betteshanger Road and provides existing access to the southwest of the site with footpaths and lighting and extends to an existing biomass boiler adjacent to the south west boundary. There is an existing Public Right of Way (PRoW) EE367A following the south western boundary and a further PRoW EE368 which crosses the northern part of the site from east to west, between two existing drainage ponds. Close to the southern boundary is PRoW EE369. The site is well connected to the PRoW Network. There is an existing open space corridor running across the site in a roughly north/south direction and linking with Circular Road. This space includes a children's equipped play area and a skate park with associated car parking accessed from Circular Road. Adjacent to the two drainage ponds is a sewerage treatment plant, these are to be retained and utilised.
- 1.8 Due to the infrastructure being already completed the site benefits from an existing infrastructure provision including two ponds, designed to accommodate surface water drainage from the site, and a waste water treatment plant structure adjacent. The site is fairly open land bounded by hedgerows and trees and structural landscaping throughout which is mostly to be retained. The site itself slopes from north-west to south-east before dropping away further south before rising in the distance. The character of the site reflects its intended use for employment but has been colonised by vegetation (which shall be discussed in more detail in the ecology section below). The site has been graded to form a series of development platforms with some steep embankments forming the development boundaries, which each development platforms contained within existing landscaped parcels.
- 1.9 The proposal is in outline form for the further development of this partly developed site by the erection of up to 210 residential units including 12 self-build plots. These units would be sited on the existing serviced development platforms forming four housing areas in total on either side of Colliers Way, divided by existing or replacement landscape features and the existing park. These are to be divided into different character areas including a semi-formal avenue along Colliers Way and informal lanes, centred around a community park. A further development platform to the east, adjacent to Betteshanger Road has been removed from the proposals due the higher ecological value of this part of the site. The housing will include 30% affordable units of mixed tenure.
- 1.10 A business/commercial area is proposed to the north, adjacent to Intercrop land to the north and Almond House. 2500sqm of commercial (B1) office space is proposed along with 150sqm of A1 retail, expected to be a small food/convenience store. This will be two storey in height. A large proportion of the existing woodland is to be retained, along with the central open space and wetland ponds which are to be enlarged to provide surface water storage. Most boundary planting (trees and hedgerows) are to be retained and enhanced, although some smaller areas of landscaping within and around the development plots are to be removed, although key landscape elements are to be retained and incorporated into the development. The applicant has also proposed the

enhancement of footpath links and a new bus stop on Sandwich Road to service the development which has been subject of a Road Safety Audit. In addition, land will also be provided to Betteshanger Social Club to enhance its facilities adjacent to the application site. Following further assessment and revisions 10.5 ha of land on Betteshanger Country Park will also be set aside and managed in the long term to enhance, and form compensation for, the Open Mosaic Habitat on the application site that would be lost. A further site within the district has been put forward by The Environment Bank and identified as additional compensation land for the proposed development site.

1.11 A comprehensive outline masterplan has been provided which will form the framework for a Reserved Matters application and informs the proposed character areas and sets out sustainability criteria (discussed below). The aim is to comply with Design Guides and Building For Life 12. The density of the development is to be varied with an average of 31 dwellings to the hectare. The majority of the site is expected to be 2 – 2.5 stories in height with an area of three storey dwellings adjacent to the commercial area. The total height of the commercial units are 12.5m and no development should exceed the height of Almond House.

1.12 The following documents have been submitted in support of the application a number of which have been amended and submitted during the course of the application, particularly in relation to the Ecology Appraisals and ongoing Ecological survey assessments. The initial masterplan layout has been amended to remove any development in the north east part of the main site:

- Geophysical Reports
- Betteshanger Sustainability and Energy Statement
- Outline Remediation Strategy
- Noise Assessment
- Air Quality Assessment
- Design & Access Statement
- Betteshanger Park Economic Benefits
- Betteshanger Self-Build Assessment
- Arboricultural Impact Assessment
- Updated Ecological Appraisal
- Consultation Responses
- Outline Management Plan
- Biodiversity Metric
- Flood Risk Assessment
- KCC Response Note
- OMH Management Plan
- Management Activities
- Ecology Response
- Invertebrate Survey Report full survey
- Landscape Masterplan
- Landscape Visual Impact Assessment
- Planning Statement
- Archaeological DBA and Built Heritage Assessment
- Transport Assessment
- TA Addendum
- Travel Plan
- Betteshanger Planning Balance Memo

- Summary of Ecology Matters
- Minerals Note
- Coal Mining Risk Assessment

An update on additional representations will be provided verbally to Committee Members at Committee.

**(g) 2. Main Issues**

2.1 The main issues for consideration are:

- Principle of Development
- Ecology and Biodiversity
- Sustainability and Climate Change
- Appropriate Assessment
- Impact on Landscape and Visual Amenity
- Highways Issues and PRow
- Drainage and Flooding
- Heritage Assets
- Affordable Housing and Dwelling Mix
- Layout and Residential Amenity
- Development Contributions
- Other Material Considerations
- The Planning Balance & Conclusions

**Assessment**

**Principle of Development**

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in 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 of the confines, unless it is specifically justified by other development plan policies or it functionally requires such a location or is ancillary to existing development or uses. Having regard to the wording of this policy, the site is partially allocated for employment development under saved policy AS1 and the CS, therefore some development of this site is justified by other development plan policies. The relevance of policy AS1 is discussed further below. However, parts of the site outside the allocation could be considered partially contrary to policy DM1, as the site is outside the settlement confines.
- 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, they are nearby and part of the site is allocated for development in the CS (policy AS1), it has good footpath and cycle links and includes proposals to enhance bus facilities. On this basis it is considered that the occupants of the development would be able to 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. The allocation of part of the site also adds further support to development on this site.

- 2.5 Policy DM15 requires that applications which result in the loss of countryside, or adversely affects the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. It is considered that the development would have only a limited long term impact on the adjoining character and appearance of the countryside which is mostly mitigated by the existing and retained landscaping, with a detailed justification of this position discussed in more detail below. It is also DDC's position that the site is partially developed by virtue of the works undertaken by SEEDA and is separate from the surrounding countryside. Therefore, the proposal does not result in the loss of countryside, being the first part of Policy DM15 and limited harm is caused by the proposed development, the second part of the policy. Policy DM15 therefore only has limited weight in this case.
- 2.6 However, notwithstanding the primacy of the development plan, paragraph 11(d) 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 (75% or less), 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 for the most recent assessment on 19<sup>th</sup> January 2021, the Council is currently able to demonstrate a five-year housing land supply (HLS) of 5.39 years and the Council have not 'failed' the Housing Delivery Test (80%). This includes a 20% buffer, as required by the housing delivery test (HDT). In line with paragraph 73 of the NPPF we will be updating our position from 1<sup>st</sup> April 2021, applying the 20% buffer.
- 2.8 As Members are aware, the current Core Strategy policies and the settlement confines referred to within the policies were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 596 dwellings per annum. As a matter of judgement, it is considered that the evidence base underlying Policy DM1 is out-of-date and the blanket ban on development outside the defined urban confines is inconsistent with the NPPF which focusses on protecting important elements of the countryside, where they are present, and not all countryside. Moreover, paragraphs 77 and 78 of the NPPF on rural housing provide no support for a blanket prohibition on the provision of housing in the countryside, especially on sites close to or adjoining existing settlements. As such, the policy should carry only limited weight. While Policy DM11 broadly accords with the NPPF's aim to actively manage patterns of growth to support the promotion of sustainable transport, the blanket approach to restrict travel generating development outside of settlement confines is inconsistent with the NPPF. The policy is partially out-of-date and should therefore be afforded limited weight. Policy DM15 seeks to resist development that would result in the loss of, or adversely affect the character or appearance of the countryside. This is broadly consistent with the NPPF, although the objective to refuse development resulting in the loss of countryside is inconsistent with the NPPF as explained above. Parts of policy

DM15 therefore are not up-to-date and it's considered therefore that the policy should be afforded less than full weight. Given how important Policy DM1 is and, in view of the tension between policies DM11 and DM15 and the NPPF, it is considered that the 'basket of policies' which are most important for determining applications are out-of-date and should not be given full weight.

- 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 approved.
- 2.10 The application must be assessed against paragraph 11 of the NPPF which directs that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole or where specific policies in the NPPF indicate that development should be restricted.
- 2.11 In addition, it is also necessary to consider Saved Policy AS1 (2002) which was saved from the 2002 Local Plan following the adoption of the CS in 2010 and is still a material consideration of some weight. Saved Policy AS1 partially allocated the former pithead site for employment uses as envisaged as part of the original SEEDA Masterplan and the outline/hybrid planning permission (DOV/02/00905) granted in 2004. This employment allocation therefore remains. The 02 permission included the total land holding forming Betteshanger Sustainable Park and a number of components of this permission have been implemented. The Betteshanger Country Park opened in May 2007 and the main road infrastructure, including strategic landscaping, utilities and drainage were also constructed at around this time. Many overlapping conditions relating to the whole of the site (relating to ground investigations, ecology and archaeological surveys etc) were also discharged at the time. The Reserved Matters applications relating to the proposed employment buildings was however not submitted.
- 2.12 The hybrid/outline planning permission by SEEDA related to the whole of Betteshanger Sustainable Park (colliery/pit head and the spoil tip, now Betteshanger Country Park) and approved land beyond the policy AS1 allocated area, as part of a comprehensive land use approach to the whole colliery site. This past approval therefore also remains a significant material consideration and it is relevant that the application site was identified as a location for employment as part of a masterplan. The construction of the road and drainage infrastructure (including the roundabout on the A256), provision of strategic landscaping, formation of development platforms and the configuration of the estate roads, effectively partially implemented this hybrid permission and has caused some confusion regarding the planning status of the land. However, the outline permission is not extant, as this permission cannot be further implemented. Nevertheless, the previously implemented employment planning permission and existing allocation are a material consideration and identify that development of the site has been envisaged for a significant period of time with substantial investment and enabling works having taken place on both parts of the site.
- 2.13 More recently, planning permission was granted for the erection of a detached incubation building (Classes B1, B2 & B8 with a floorspace of 2,475sqm and ancillary café) which was located to the north of the application site, adjacent to

Intercrop (this has now expired). A further planning permission is also still extant for a winery building adjacent to Colliers Way. The site has therefore been identified as a regeneration area and a major commercial site/employment allocation in both the 2002 Local Plan and 2010 Core Strategy. The application site itself, forms part of the wider pit head regeneration/sustainable park site promoted by SEEDA.

- 2.14 Notwithstanding the substantial initial investment, the commercial development envisaged in the Local Plan under policy AS1 (and the CS strategic employment policy DM2) has not materialised over the past 20 years, paragraphs 120 & 121 of the NPPF set out the need to adapt and respond to changing demand for development. Accordingly, there is a policy requirement to consider; a) whether there is any reasonable prospect of the land coming forward as envisaged by the allocation, and if the authority is satisfied that there is not, b) support the application for alternative uses, if the authority is satisfied that the proposals contribute to meeting an unmet need for development in the area.
- 2.15 Furthermore, the Economic Development Needs Assessment (2017) identified an oversupply of employment land in the District and that the application site lies in a poor location for major employment development, concluding that it would be difficult to attract strong demand and viable B class development opportunities at the site. The land has been awaiting development for over 20 years, despite being available and positively encouraged for economic development throughout this period. There is clearly little or no prospect of the land coming forward in accordance with the allocation. This evidence further supports the need to find an alternative use as required under para's. 120 and 121 of the NPPF and the report was also commissioned to inform the Local Plan Review. There is, however, a continuing need for additional housing sites in the district going forward (as set out in the Draft Local Plan Review).
- 2.16 As a result of the above, the Local Plan Review process considered the site in its HELAA process to inform the Local Plan. This identified the site as suitable and available for housing development (up to 250 dwellings) including the potential for an element of employment uses and self-build dwellings. The key issues identified at that stage were highway impacts and potential capacity issues, along with potential drainage issues, including the impact on the designated wetlands to the northeast.
- 2.17 Following the HELAA process this planning application was submitted for consideration to include up to 210 dwellings, 12 self-build plots, commercial office floorspace of up to 2,500 sqm (in the same location as the previous permission) and up to 150 sqm of retail floorspace to support employment.
- 2.18 More recently the Local Plan Review Consultation Draft (Reg 18) was published and includes this site as a proposed allocation for up to 250 dwellings, employment and associated uses, subject to further consideration of a number of issues that are all set out in detail in this report. The Local Plan Review process, however, is not at a stage of sufficient weight to overrule the key considerations of Paragraph 11 of the NPPF, which still takes precedence in the consideration of this planning application.
- 2.19 There is also the need to consider the status of the land, i.e. whether it is undeveloped, previously developed (or brownfield) land or developed land for the purposes of planning. This has been a matter of detailed consideration and is important in relation to how planning policies and the NPPF should be applied

and the weight to be afforded. The applicant's view has set out that the site is developed, in that it was a previously developed site when the coal mining use ceased, but as a result of the enabling works undertaken by SEEDA, the site has been developed to form development parcels and all infrastructure works as approved under the outline planning application. These proposals were all lawful and therefore this is a developed site and does not form part of the countryside.

2.20 DDC's view on the status of the land largely accords with that put forward by the developer. The site was previously a minerals extraction site, which was then remediated. When remediated the site ceased to come within the scope of the definition of previously developed land. However, new development was then undertaken on the site, in line with the outline planning permission. Therefore, the conclusion is that the site is now partially developed, has not blended back into the landscape and it does not form countryside. The NPPF, however, directs that the principle of development on this site is appropriate in that it seeks a more efficient use of developed sites or directs development towards previously developed land in the first instance.

2.21 In conclusion, and on balance, it is considered that, the development plan, taken as a whole, indicates that development should be permitted as the site has no formal landscape or other designations and some of the most relevant DP policies are out of date. The site is not categorised as countryside and is, in part, developed land. The site has been demonstrated to not be suitable for employment uses and an oversupply of such land use has been identified in the district that enables this site to come forward for other uses. There is a clear need for additional housing in the district to 2040. Permission should therefore be granted, in line with Paragraph 11 of the NPPF, unless there is any clear harm that would significantly and demonstrably outweigh the benefits of additional housing development in the district. A residential use is an acceptable form of development, in principle, for this site and it meets the overarching objectives of the framework, set out in the NPPF. Nevertheless, there are a wide number of key and other material considerations that all need to be considered as a whole and weighed in the planning balance, even though the principle of development on this site has been established previously.

#### Ecology and Biodiversity

2.22 It is necessary before commenting on the detailed ecology considerations to address the concerns identified in respect of the EIA process and the screening process which concluded that an EIA was not required for this development. This was set out in the formal Screening Opinion under DOV/20/00120 where the full document is publicly available. In summary, whether a proposed development requires an EIA to be undertaken and an ES submitted with the planning application depends on a wide number of criteria and consideration of thresholds identified by legislation. The proposed development falls within Schedule 2 of the EIA Regulations (2015) (as amended) but does not exceed the thresholds set out in the legislation, regulations and guidance and was also assessed under Schedule 3 in terms of its significant effects. This screening process identified that an EIA was not required.

2.23 The position in respect of ecology and biodiversity on the site has been the subject of significant discussion since the submission of the application and has evolved and been updated throughout the course of the application and is still ongoing. It is unfortunate that the application was not submitted with a fully comprehensive package of ecological surveys and mitigation, but this has to an

extent been addressed in the revisions and additional survey work provided in support of the application. It is also expected to continue to be an ongoing and evolving package of measures to be controlled through planning conditions and the s106 legal agreement should planning permission ultimately be granted. At present, it is the case that there are differing opinions between the experts on the proposed approach to the protection and long-term management of the specific and important species and habitats, in terms of the impacts on site and mitigation and compensation off site. Most of the discussions with the applicants have focussed on the ecology issues and these would continue, with a further report to the Planning Committee, if Members were minded to accept the recommendation in this report.

- 2.24 It is not possible within the scope of this committee report to deal with all the individual impacts and detailed considerations on all the different species, habitats, flora and fauna that have been identified and raised during the course of considering the application. The advice that has been received has taken into account best practice derived from numerous sources. For these reasons, I have included some of the specialist organisations' objections in the representation section above, in more detail than would normally be expected, to provide a full summary of the ecological concerns and specific issues that have been raised. It is important to note that the following ecological and biodiversity section is a summary of the key issues and the mitigation and compensation proposals that have been put forward for the whole site, rather than a discussion of all the individual species, flora and fauna that are all important in their own right and all have their own part to play within the wider discussion of biodiversity and ecosystems. This is not to diminish their role, but the scope of the detailed and technical issues surrounding each species or plant cannot be dealt with in all its respects within this report.
- 2.25 The application was initially submitted with a Phase 1 Ecological survey of the site, which was identified as being insufficient to deal with the different ecological considerations on this site. The applicants therefore commissioned a number of more specialist surveys including flora and invertebrate surveys to be undertaken (see schedule above). This was assisted by a number of third-party ecologists and specialists undertaking their own surveys and submitted representations accordingly. It is clear that the application site is being used by a wide range of protected species, birds, invertebrates, and flora and fauna, is in certain respects unique and of high importance at both a county and national level, due to being rare, endangered, or threatened. The development site has also been identified as containing a number of Priority Habitats including– Open Mosaic Habitat (OMH) and Deciduous Woodland. Not least the site is being used by:
- 4 pairs of breeding Turtle Doves, a priority and threatened species
  - Invertebrates - An endangered spider (nationally rare and near threatened) and a rare ground bug
  - Grass-poly – nationally rare, a priority species and protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended)
  - Lizard Orchids - nationally rare, a priority species and protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended)
  - Pennyroyal - nationally rare, a priority species and protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended)



- 6 species groups of bats (Common Pipistrelle, Soprano Pipistrelle, Nathusius' Pipistrelle, Myotis sp., Nyctalus/Eptesicus sp. and Brown Long-eared)
- Badgers - 2 main setts recorded within the woodlands in the south-western and north-eastern parts of the site
- Great Crested Newt - in small pond located centrally within the site
- Reptiles – low populations of reptiles, one adult Common Lizard and two adult Slow-worms
- Birds – an assemblage of birds has been recorded with other priority species including Cuckoo, Starling, Song Thrush, Bullfinch and Linnet.

2.26 All of the above species and flora, as well as a number of others, are protected by national and international law under the following legislation and species priority lists.

- The Wildlife and Countryside Act 1981 (as amended) and listed as Schedule 8 species, requiring protection under this legislation. Mammals have legal protection under this legislation.
- Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places duties on public bodies to have regard to the conservation of biodiversity in the exercise of their normal functions. It publishes a list of habitats under Section 41 which are of principal importance for conservation in England, 'Priority Habitats'. Priority Habitats identified on the site include: 'Open Mosaic Habitats on Previously Developed Land' (OMH) - comprising the development platforms proposed for development, also 'Hedgerows', 'Deciduous Woodland', 'Ponds', 'Reedbeds' and 'Lowland Fen'.
- There is also a national list – England Red List (2014) and IUCN Red List of Threatened Species, 2001. These list species of ecological significance that are vulnerable or threatened. There is also a list of plants in the Kent Rare Plant Register. Further, specialist organisations such as Kent Wildlife Trust (KWT) hold their own lists of species requiring specific protection.

2.27 Planning Policy is considered in the NPPF in Paragraphs 170 – 177, with the key paragraphs set out above. Further guidance is set out in the National Environment Planning Policy Guidance (amended 2019). The current Core Strategy does not have any specific policies for ecology and biodiversity, however, Policy CP7- Green Infrastructure Network is most relevant.

2.28 **In summary, the NPPF paragraphs 170 and 175 are considered to be the key tests for planning to consider.**

**Paragraph 170(d) – *minimising impacts on and providing net gains for biodiversity, including coherent ecological networks that are more resilient to current and future pressures.***

**Paragraph 175 – *When determining planning applications LPA's should apply the following principles: (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;***

***(c) development resulting in the loss or deterioration of irreplaceable habitats ... should be refused, unless there are wholly exceptional reasons and a compensational strategy exists.***

**Therefore Paragraph 175 (a) identifies the determinative issue to resolve i.e. is the biodiversity harm adequately mitigated, or can it be compensated for?**

2.29 In response to the many and highly informed ecology/biodiversity objections, including a number of recognised ecology organisations and statutory consultees, revised and updated ecology documents and assessments were submitted by the applicant on a number of occasions with amendments made to the proposed scheme. Amendments to the ecology position on the site can be summarised as follows:

- The originally proposed eastern development area of the site was omitted to enable retention of woodland habitat for the 3 pairs of Turtle Doves. A revised layout has been provided that identifies that Woodland W1 and adjacent land is now fully retained. This will minimise loss of existing nesting habitat within the site and retain 3 breeding pairs of Turtle Doves on site. (This eastern area of the site also includes or is in close proximity to the Schedule 8 Lizard Orchids.)
- The existing Woodland (W4) to the southeast of the site is now to be fully retained as existing, instead of being reduced in size.
- Existing habitats that do not form the development parcels are to be retained and enhanced on site.
- An outline compensation scheme to provide additional and enhanced OMH on Betteshanger Country Park (BCP) and provision of suitable land for Turtle Doves.
- Measures for translocation of plants to BCP and other parts of the application site.
- Use of The Environment Bank to provide additional OMH on another site within the district but not specified.
- A commitment by the applicants to provide on-site and off-site habitat provision on BCP to provide a 10% biodiversity net gain.

2.30 These ecology and biodiversity measures could potentially be secured through planning conditions or through the s106 legal agreement. The mammals, bats and reptiles on site can be addressed through well recognised, legislated and established practices for retention and protection on site or translocation in respect of the reptiles. However, the loss of OMH on site and whether it can be fully replicated off-site (for example the Poly Grass), the protection of flora and invertebrates identified on the site and the protection of bird species, in particular Turtle Doves and their foraging areas on site, remain a matter of concern. In addition, there remains a divergence of opinion as to the quality of the OMH both on the application site and off-site on BCP and thus the efficacy, or desirability, of the suggested compensation. Furthermore, there is also a disagreement as to whether a biodiversity net gain is being provided off-site and therefore whether a sufficient level of biodiversity net gain can be achieved. These matters have yet to be fully clarified by the applicants in their submissions, however, the applicants have submitted an outline mitigation and compensation package that identifies a potential biodiversity net gain, with the extent of net gain increasing over the course of the application. It is also of note that the 10% requirement for biodiversity net gain and the use of the biodiversity metric has still not be

confirmed by government in legislation, with The Environment Bill is still awaiting debate in Parliament. Its significance is widely known and some of its measures are already being used in practice, nevertheless, it does not currently form government policy or law.

2.31 The proposed compensation land identified by the applicants at BCP to provide additional OMH land, a 10% increase in biodiversity net gain and suitable habitat for Turtle Doves also raises a number of concerns, due to a large part of the site already qualifying as OMH. The quality of this habitat is still a matter of a difference of opinion between the applicant and other parties, along with Lizard Orchids found in large parts of the site identified. The outline compensation scheme sets out that parts of this site will be scrapped, potentially removing existing OMH and protected Lizard Orchids. DDC’s Snr Natural Environment Officer has identified a more suitable are of BCP for the compensation measures, but the applicants have only included part of this land, in addition to the OMH land already identified. Consequently, there are concerns that the identified compensation land is not appropriate and could potentially result in a further loss of existing habitats, biodiversity and protected species. Clarity and assurances on these matters are still outstanding from the applicants and the position is not at a sufficient stage to ensure ecology and biodiversity can be fully secured in line with best practice and policy. These concerns, along with those set out in the table below, remain an important material factor for consideration and whether the mitigation and compensation measures are appropriate and fully comply with Paragraph 175 (a) of NPPF.

2.32 The following table identifies a number of species-specific and ecology concerns that have not at this stage been adequately resolved in order to address the concerns that have been raised, including those of DDC’s Snr Natural Environment Officer, and includes concerns with the mitigation and compensation measures being put forward under this application.

<b>Species/Habitat/ DDC issues</b>	<b>Mitigation and/or Compensation Proposed by applicants (with their comments)</b>	<b>Key Concerns/Outstanding Matters</b>
<p><u>Turtle Doves</u> 4 pairs of breeding - priority species - 3 breeding pairs &amp; core territory area associated with the 3 pairs within the eastern part of the site is retained.</p> <p>4<sup>th</sup> breeding pair, tree used for nesting to be removed and lost</p> <p>How is loss of foraging area on development platforms to be addressed, how ensure retained on site or relocated to BCP</p>	<p>Compensatory habitat to be provided within BCP. A minimum habitat area of 3.83ha plus supplementary feeding is proposed to compensate for loss of one territory and impacts on other pairs. Mitigation will be secured by S106, to be informed by further survey work and approved in consultation with the RSPB. This will also set out ongoing</p>	<p>What happens to the 4<sup>th</sup> pair of breeding doves, tree is still identified for removal? What mitigation to address the loss?</p> <p>Foraging land on development parcels removed, where will the doves feed? How will their protection be secured?</p> <p>No detailed mitigation scheme at this stage and no timescales identified. Suitable land will take time to establish, what if this isn't successful?</p>

	monitoring, with the intention that this is overseen by the RSPB.	Up to date evidence of BCP being used by Turtle Doves required to establish baseline.
Invertebrates - An endangered <u>spider</u> (nationally rare and near threatened) and a rare <u>ground bug</u> - The main areas of bare and recolonising ground forming the development platforms are considered to be of value for invertebrate species associated with open vegetation, with a number of species of conservation interest recorded.	The S106 will secure delivery of OMH provision to achieve a 10% net gain in biodiversity, ensuring appropriate compensation for habitat losses. New habitat opportunities will be provided, allowing for colonisation by invertebrate species. This will be assisted by translocation of substrate and vegetation turves from the site to new OMH areas.	How will these species be ensured protection?  No detailed strategy set out in the outline mitigation proposal, need more certainty and specific measures.  Protection to be secured via ongoing management and monitoring of new OMH areas under the S106. Areas of highest diversity for invertebrates have been stated to be retained under the proposals but this is unclear where the areas have been identified.
<u>Grass-poly</u> – nationally rare, a priority species and protected under Schedule 8 of the WCA 1981 Located on development platforms	Translocation over 2 seasons to onsite receptor areas (with additional offsite receptor to also be investigated).  Seed collection would allow for planting of species in subsequent years if initial translocation unsuccessful	What happens if translocation isn't successful? Translocation should continue until established off-site and on-site.  How will on-site measures be protected?  Off-site receptor needs to be identified and set out in proposals.  No evidence that translocation would be successful, what happens if this occurs?
<u>Lizard Orchids</u> - nationally rare, a priority species and protected under Schedule 8 of the WCA 1981  Identified on application site and also on Betteshanger Country Park (BCP) compensation area	Third party records have been provided as evidence at the eastern part of the site.  No evidence of this species has been recorded within the site by applicant - absence of Lizard Orchid on site confirmed by BSBI records. As such, Lizard Orchids would not be impacted by the development.	Protection measures on site could still be identified as sites are outside of development platforms. Are all these areas to be protected? How?  BCP– how will these measures ensure protection? How monitored and managed? What safeguards in place?  No detailed mitigation measures have been identified at this stage.

	<p>The BCP proposals seek to maintain suitable habitat conditions for Lizard Orchid, and management activities informed by ongoing surveys to mark out Lizard Orchid locations so these can be avoided during scrape creation. Protection to be secured via ongoing management and monitoring of new OMH areas under the S106.</p>	
<p><u>Pennyroyal</u> - nationally rare, a priority species and protected under Schedule 8 of the WCA 1981</p>	<p>Recorded locations of Pennyroyal lie outside of proposed works areas (including enlargement of existing drainage ponds) such that it would not be impacted by the development proposals.</p> <p>Onsite management will seek to maintain existing habitat for this species.</p>	<p>No specific details of protection and management to ensure not impacted have been provided.</p> <p>Translocation could also be considered, as per Grass -Poly to increase biodiversity.</p>
<p><u>Discussions with the applicant have also included consideration of bringing in expert assistance in ecology matters</u></p> <p>Inclusion of a recognised ecological body to oversee and manage the ecological aspects of the proposal on and off-site including compensation scheme</p>	<p>During consultation discussions, both KWT and RSPB have indicated a willingness to be involved with ongoing management and monitoring of compensatory habitat if the scheme were to be consented. The mitigation scheme to be secured under S106 and agreed with the LPA and relevant consultees will detail ongoing management and monitoring arrangements, allowing for the land to be handed over to a recognised ecological body, or for works to be overseen by such a</p>	<p>No detail of this is provided in the outline mitigation, compensation and management plans, to allow a sufficient degree of certainty that this can be secured.</p>

	body through an agreed monitoring programme.	
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2.33 The applicants have put forward a number of supporting arguments and a supporting case for the ecological proposals, which identifies:

*“The biodiversity metric does not consider or reflect the ecological benefits of the compensatory land being subject of an ecological management plan to secure its long-term ecological value. This is a significant benefit of the approach proposed given the potential for OMH interest to be lost through the natural process of succession, or through potential changes to the land use and operations of Betteshanger Country Park. As part of the enhanced compensation package, an enhanced area of OMH is proposed within Betteshanger Country Park amounting to some 10Ha of land. The area utilises some of the area identified by the Natural Environment Officer, in addition to the 8Ha previously proposed, however currently avoids conflicting with existing uses.”*

2.34 The suitability of the identified compensatory area of OMH has been questioned, as set out above. Whilst the identified compensation area is acknowledged to currently support OMH, in the absence of active management this is being impacted by natural succession and over time will be colonised with different species and the OMH will be lost. OMH is defined by early successional plants that colonise bare (often remediated ground), which is partly why is it a priority habitat, as sites become colonised by other plants or developed over time. The application site and OMH at BCP will therefore be lost over time and neither is currently the subject of a management plan. It’s long term management and protection is therefore capable of qualitative ecological enhancement through the implementation of the management plan. As such, the securing of a management plan for existing areas of OMH within the Country Park is a significant benefit being put forward by the applicant that should be given significant weight in decision-making and as a valuable component of the mitigation and compensation strategy being proposed.

2.35 The objections raised by DDC Natural Environment Officer, KWT and RSPB have all shaped the proposals, in the applicant’s view, resulting in a package of ecological mitigation and compensatory measures at both the application site and Betteshanger Country Park. The applicants have stated that *“the proposed measures would deliver compensatory habitat managed in the long-term at a ratio of 2:1 relative to the qualifying habitat to be lost through the development proposed and a proposal which would deliver biodiversity net gain. The compensatory habitat proposed and secured by the proposal sits alongside on-site mitigation measures including ecological enhancements and safeguards. The result is that this application represents an opportunity to secure biodiversity net gain through a comprehensive package of ecological mitigation and compensation, in accordance with national planning policy and the mitigation hierarchy, which has evolved to respond to the objections received and fully reflects the floral and faunal interest of the site.”* The conclusions being that the approach and biodiversity net gain delivered is consistent with NPPF policy and addresses the ecology objections raised.

2.36 However, following an in-depth and detailed assessment of the proposed mitigation and compensation measures, the applicants have not provided the level of clarity and certainty at this stage for Officers to confirm that ecology

matters, as set out above, have been satisfactorily addressed, or have sufficiently demonstrated that the legislative requirements have been fully addressed in all respects. DDC's Snr Natural Environment Officer has clearly set out the concerns regarding the measures identified and any unresolved matters need to be addressed to an acceptable level to provide sufficient certainty that the harm to ecology and biodiversity has been suitably mitigated or compensated as required under paragraph 175 of the NPPF, prior to a formal decision being issued. More detail and clarity is therefore required on a number of issues, to be addressed under this application and then controlled more specifically through conditions and the s106. Members are therefore requested to resolve that they are minded to approve the application, subject to these matters being suitably addressed and a further committee report on ecology matters to follow.

- 2.37 For clarity, a number of measures are appropriate at this stage and can be secured to address the impact on a number of protected species. These include Badgers, with 2 setts on site that are both located within woodlands and outside development areas and are to be retained. Measures for their protection and safety are well established and can be implemented. Additionally, measures to relocate and protect Great Crested Newts (1 identified) and reptiles (1 common lizard and 2 slow worms) are well established and can be satisfactorily controlled with only low numbers recorded having previously been relocated during remediation works. In respect of birds using and nesting on site (including an assemblage of birds that includes Cuckoo, Starling, Song Thrush, Bullfinch and Linnet), safeguards can be put in place which could include additional surveys if construction work is undertaken during the bird breeding season, but working outside of the bird nesting season is recommended and can be controlled through conditions. Furthermore, approximately 90% of the trees on site are to be retained (along with all existing landscaped areas) which retains nesting and feeding areas. This, along with new habitat provision and management both on-site and off-site, will maintain opportunities for other bird species (but potentially not Turtle Doves), together with provision of nest boxes on trees and new buildings.
- 2.38 In terms of the existing trees on site, the deciduous woodlands on site are a UK priority habitat that has been assessed by the applicants and DDC's Tree Officer. W1, W3 and W4 are being retained and enhanced through appropriate management and enhanced biodiversity measures. These include small scale thinning and coppicing of trees, particularly at woodland margins to create a diverse edge habitat and maintain light levels for ground flora, and supplementary planting to increase species diversity. Furthermore, the impact on trees to be retained and the necessary protection measures, including root protection zones can also be controlled by conditions. Woodland W2 is to be lost and includes trees G29 and G30, which are considered to be of amenity value by the Tree Officer and is also the location of the breeding pair of Turtle Doves. Discussions have been ongoing with the applicants to try to secure the retention of these 2 trees into the proposed scheme, however, the applicants have maintained the position that these need to be removed. Nevertheless, the option of serving a TPO on these 2 trees is available and is still being considered at the time of writing. A recent technical note has been provided by the applicants updating the position in respect of trees and hedges on the site and it may be possible to retain some of the internal hedgerow although no specific details have been provided at this stage but this could be secured by condition. The proposed layout does, however, allow additional hedge and tree planting to provide enhanced landscaped areas where new trees can be planted. New

planting would also need to consist of a mix of native species which could be controlled by suitable conditions. Any updates on the serving of a TPO will be reported to Members at Planning Committee.

- 2.39 The existing drainage ponds on site will be retained, enlarged and enhanced that provides a further opportunity to enhance biodiversity and ecology on the site. No objection has been raised in this regard, but priority species have been identified in close proximity by third parties. This, as set out above, could be further addressed and can be set out in the ecology report to follow.
- 2.40 In conclusion, ecology on the application site is a key material consideration and there are clear areas identified where sufficient answers to the questions raised have not, at this stage, been adequately provided by the applicants. It cannot therefore be confirmed that the proposed compensation and mitigation measures are satisfactory. There are still outstanding questions regarding full compliance with the aims and objectives in the NPPF and paragraphs 170 and 175. Members are therefore asked to indicate that they accept the principle of residential development on this site, to provide some confidence for the developer to take the mitigation and compensation measures forward and provide the level of security and detail necessary to enable a formal decision to be forthcoming, following an additional ecology report to Members in due course.

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

- 2.41 The application site is partially sited within (extends across the existing access road, Betteshanger Road, off the A256) the SSSI and is in close proximity to the Ramsar and SPA designations, as well as within the water drainage environment that partially informs these designations and their special character. It was therefore necessary to undertake an Appropriate Assessment (AA) in accordance with the Habitat Regulations as the determining authority. This was a detailed consideration of the impact the proposed development could have on the special ecological characteristics of these important designations. The AA assessment is provided in full on the planning file and concluded that DDC is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England have advised that they concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission, as set out below.
- 2.42 The individual impacts of the development are all considered and assessed in this report. It is also necessary to consider the specific likely significant effects on a European Site in terms of the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.43 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011 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.



- 2.44 Following previous consultations 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. 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.
- 2.45 For proposed housing developments in excess of 14 dwellings (such as this application) the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance to a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education). Natural England has been consulted on this element of the appropriate assessment and concludes the assessment is sound.
- 2.46 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. A contribution of £12,381.39 is therefore sought to this effect and has been included in the draft s106 agreement.

#### Sustainability, Climate Change and Air Quality

- 2.47 This section encompasses a wide range of issues and it is intended to cover the key issues most relevant to this proposal and as raised by objections to the development, although a number of these aspects will be considered under different sections of this report and will be concluded in the Planning Balance section at the end of this report.
- 2.48 Paragraph 38 of the NPPF advises authorities to approach decisions in a positive and creative way, and to work with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Paragraph 8 highlights that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, so that opportunities can be taken to secure net gains across each of the different objectives. Paragraph 8 presents the three objectives as follows:
- “a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and

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

- 2.49 Whilst the three objectives are interdependent, it is important that development takes local circumstances into account, to reflect the character, needs and opportunities of each area and the proposal strives to achieve regeneration that is economically, socially and environmentally advantageous to the area and comprehensively responds in striking the appropriate balance.
- 2.50 In terms of the economic objective the provision of housing is a key consideration. Additionally, employment floorspace and a small retail unit are to be provided, which add the provision and economic case for the proposal. The socio-economic case also identifies that funds from this development will be used towards the completion of the mining museum and the completion of visitor facilities at Betteshanger Country Park for adding to the case. The applicant has presented a case that the provision of housing will provide additional benefits to the local economy, boosting the local economy and delivering additional housing in the District. Whilst it is agreed that encouraging inward investment should carry some weight these need to be weighed against the benefits and disbenefits of the development as a whole. The applicant has also advised that the development would create direct and indirect jobs during the construction phase of the development and the employment uses will directly increase jobs in the area. The employment which could be generated by the development therefore adds further weight in favour of the development. In terms of paragraph 8 this proposal would add to the economy, growth, innovation and the provision of infrastructure.
- 2.51 With regards to the social role, the development would provide additional dwellings, which would contribute towards the Districts housing supply and would accord with the aim of significantly boosting the supply of housing. The proposal would also include the required provision of 30% affordable housing, as identified in policy CP5, and would enable the provision of a larger proportion of affordable housing being available that adds further weight in favour of the proposed development. The enhanced provision of open space facilities, cycle and footpath improvements, along with contributions towards the required facilities also adds to the social role. In respect of paragraph 8 the proposal would add support to existing communities, fostering a well-designed environment to support communities, social and cultural well-being.
- 2.52 Turning to the environmental role, the proposed development can mitigate the visual impact on the landscape with a large proportion of the on-site landscaping to be retained and enhanced on site. A proposed ecology mitigation and compensation scheme has been provided that can be controlled by conditions and the s106 agreement to ensure the ecological and biodiversity enhancements, as required by the paragraphs 170 and 175 of the NPPF are provided accordingly. Turning to paragraph 8, the site is making effective use of previously developed land, has made a case for biodiversity and is to include a number of measures, to be discussed below, to reduce pollution mitigate and adapt to climate change.
- 5.53 These points, although not determinative on their own, add further weight to the recommendation for approval and need to be assessed as material

considerations in its favour of the application, notwithstanding the ecological concerns. The development would broadly accord with the overarching aims of the Core Strategy and accords with the NPPF and is therefore, on balance, considered to be an acceptable form of development on this site.

- 2.54 Turning to the issue of climate change, this consideration encompasses a wide range of issues with the intention of minimising the impact on the environment not just now, but in the future. It is a concept that has been at the heart of the planning system for a significant period of time and is enshrined in planning policies and the NPPF. Of most relevance are paragraphs 8 and 148 – 150 of the NPPF, that set out the key planning requirements. The next paragraphs in the report set out how the proposal has sought to address these issues.
- 2.55 In terms of DDC's recent adoption of the Climate Change Strategy, this is not a development plan document and has not been adopted for planning purposes. Although of relevance, it has limited weight in the process. Nevertheless, these principles and aims are already included within the planning system and set out in planning documents including the NPPF and a therefore material planning consideration.
- 2.56 Energy efficiency and sustainable features of the proposal, that address the above climate change concerns, have been set out in the submission of a Sustainability and Energy Statement and BREEAM assessment for non-domestic buildings. These documents set out the key features to be incorporated into the proposals. In terms of BREEAM the non-domestic buildings are expected to meet the Very Good rating, in line with Policy CP5 of the CS. Domestic buildings are expected to meet Part L of the Building Regulations with an aim to provide 30% reduction in CO2 emissions (the current requirement is 19% but is expected to be increased to 30% in the near future). Code for Sustainable Homes is no longer applicable but the energy savings and use of sustainable features throughout the development are being proposed. These include:
- Measures to reduce water consumption
  - Use of grey water and rainwater harvesting
  - Use of passive design features and minimising overshadowing and use of solar gain
  - High insulation and thermal mass
  - High air tightness in the building envelope
  - Energy efficiency fittings throughout
  - Use of air source heat pumps and no use of gas heating
  - Roof mounted PV solar arrays
  - Electric vehicle charging points for all dwellings and 10% of unallocated spaces
  - Further consideration of a communal battery storage infrastructure to feedback to the grid and reduce demand at peak times
- 2.57 The incorporation of these features proposed, go above current building regulation standards, that are the key mechanism for energy efficiency provision and are to be encouraged as they assist with adaption for climate change. These documents will also form part of the approved document list attached to any outline application. With the expected provision of these features at outline stage and planning conditions relating to BREEAM and provision of EVC charging points, the proposals have made efforts to address energy efficiency

and the use of sustainable features throughout the proposals. The reserved matters application would also have the opportunity to consider these matters further. It is considered that these measures, along with the other sustainable elements of proposal, are comprehensive and adequately address the concerns expressed regarding climate change and the sustainability of the proposed development.

- 2.58 An Air Quality Assessment has been submitted with the application and updated accordingly to take into account background evidence for the Local Plan Review. This identifies that there will be no significant impact on air quality during construction or the operational phase of development. Current traffic data has been assessed and the results of predicted concentrations of relevant pollutants are below the relevant objectives set out in the Air Quality Management Guide for all nearby sensitive receptors. In accordance with the Kent and Medway Air Quality Partnership the impact of the emissions arising from traffic associated with the operation of the proposed development is considered to be low/imperceptible. Traffic generated by the development is also predicted to have an insignificant impact on N-deposition rates and airborne concentrations within the Thanet Coast & Sandwich Bay Ramsar Site and Sandwich Bay to Hacklinge Marshes SSSI. It concludes that air quality does not pose a constraint to the proposed development.
- 2.59 DDC Environment Health have confirmed that the conclusions in the submitted and updated reports are accepted and no further consideration of the impact on local air quality levels is necessary for this application (this includes further consideration since the publication of the Draft Local Plan Review and the associated evidence base). Furthermore, an Emissions Mitigation Assessment is presented, including an emissions mitigation calculation in accordance with the advice in the Kent and Medway Air Quality Planning Guidance. In respect of additional vehicle movements from the development, the Emissions Mitigation Calculation suggests a damage cost of £163,928.34. However, the following mitigation measures are already to be included within the proposed development:
- PV and associated low carbon technology
  - 1 Electric Vehicle charging point per dwelling or 1 charging point per 10 spaces (unallocated parking); and
  - Travel Plan including mechanisms for discouraging high emission vehicle use and encouraging the uptake of low emission fuels and technologies.
- 2.60 The cost of implementing the above mitigation measures will therefore exceed the damage cost figure by a significant margin. The implementation of the above mitigation measures should further reduce the impact of emissions during the operation of the proposed development. In view of the above, DDC E/H recommend these proposed measures are secured by way of condition. As well as a condition requiring a site-specific Construction Management Plan that includes the mitigation measures identified. Provided this is implemented the Environmental Protection Team have no further observations in terms of air quality impact of this development.
- 2.61 It is also noted that the report also examines nitrogen deposition on nearby sites and concludes that traffic generated by the proposed development is predicted to have an insignificant impact on N-deposition rates and airborne NO<sub>x</sub> concentrations within the Ramsar Site and SSSI. The deposition rates are compared to data presented on the APIS website which gives the current N-

deposition rate within the SSSI of 16.2 kgN/ha/yr. The conclusion that there is insignificant impact on ecological sites is therefore robust.

- 2.62 These measures and others discussed in different sections of the report, all point towards a total package of measures that address the different elements set out in paragraph 8 of the NPPF and as a whole identify the sustainability of the proposed development. Planning conditions to address these concerns are included in the proposed recommendation. As a whole, the application is therefore a sustainable form of development as identified in the NPPF.

#### Impact on the Landscape and Visual Amenity

- 2.63 In terms of the impact on the wider landscape and visual amenity 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. As set out above the site is not considered to form part of the countryside and therefore it is DM16 that is most relevant.
- 2.64 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.
- 2.65 The site is not situated within a designated landscape but consideration of the impact on the existing landscape, its character and visual amenity is necessary to ensure the proposed development does not affect the character of the wider landscape and countryside. It is also necessary to consider paragraph 170 of the NPPF that relates to the need to enhance the natural and local environment, (ecology, biodiversity) and the importance of the intrinsic character and beauty of the countryside.
- 2.66 Due to the location of the site in a fairly rural location, there is potential for harm to the local landscape, nevertheless, is largely screened from longer views, due to the topography of the site and wider landform and existing tree and woodland planting on the site and in the wider area. In addition, the site is crossed by two PRoW and a number of PRoW, including the White Cliffs Country Trail are in relatively close proximity to the site. The landscape impact and impact on visual amenities from users of these PRoW needs specific assessment, along with the impact on residential receptors and long-distance views of the site and wider area. However, the proposal is located in an area that has previously been identified for commercial development. The site is bounded by a native hedgerow along the frontage and either side of the access. A tree lined boundary runs down the eastern boundary. The existing boundary treatments will mitigate views of the proposed buildings when approaching from the east. To the north-west is Almond House and a cluster of former miner's dwellings associated with the Colliery and an electricity sub-station. The White Cliffs Country Trail is located to the north and south of the site and will afford some views of the site. From the south the views will be set against the backdrop of Almond House and existing built development. From the north, the site will be in

the foreground of the landscape but mitigated by existing trees and vegetation. It is considered that the principle of the impact of this development has been established through the planning history for this site and that subject to the retention of existing boundary treatment where possible, that the proposal will assimilate into the wider character of the area (which is rural in character but interspersed by pockets of built development).

- 2.67 A Landscape and Visual Impact Assessment (LVIA) was submitted in support of the application. This is a detailed assessment, conducted in line with industry guidelines, which sets out a fair and reasoned assessment of the potential landscape and visual amenity impacts. The assessment identifies the character of the wider area and site before assessing the impact at year 1 of development and year 15, following completion. This identifies (in summary) that the impact on the character of the landscape and visual amenity will be at its worst, low or moderate adverse at year 1 but changes to moderate beneficial at best to neutral at year 15. This is due to existing landscape features that are to be retained and enhanced in the context of the site, along with the existing group of trees and woodland. The report identifies there will be some inevitable adverse landscape and visual effects at year 1 but these would be localised and limited in their extent and would have a low beneficial impact by year 15. Overall, the site is considered to have a capacity within its landscape context to accommodate the proposed development. An extract from the conclusion's states:

*"In respect of Policy DM16, the Proposed Development would not 'harm' the landscape character of the Site. This is because the Proposed Development has responded positively to the sensitivities of the Site in locating new massing across previously prepared 'platforms', enabling the retention of the overall vegetation structure, recreational value and Community Park within the Site. This landscape assessment has predicted beneficial landscape effects as a result to the Site and has embedded within the parameter plans, primary mitigation to avoid landscape and visual 'harm' and mitigate visual impacts to an acceptable level."*

*"This is due to commercial land uses being located adjacent to Almond House and Intercrop, such that they are spatially consolidated within the landscape and are proposed at a similar scale and height. The residential land uses are also located in adjacent to Almond House and in locations of existing substations and boiler houses within the Site."*

*"The location of the proposed massing would retain the vegetation structure across the Site and the key landscape features and therefore enable the buildings to be successfully integrated into the Site and surrounding context. The Proposed Development is therefore considered to be able to be accommodated within the landscape and visual context and would contribute towards the NPPF environmental role of sustainable development in landscape and visual terms."*

- 2.68 Overall, the submitted assessment is a fair and well-reasoned assessment of the impact on the landscape character and visual amenity from the proposed development and the impact, as a whole, can be summarised as 'neutral'. It is therefore the view that this assessment can be supported and accepted and therefore on this occasion, additional independent advice is not necessary to assess the impact on the wider landscape.

- 2.69 The massing of the development, is also shown on the indicative site layout and massing plan that confirms that the development of this site could be appropriately sited to mitigate the impact on the landscape and countryside. In

terms of the height of the proposed dwellings the maximum height of the proposed dwellings is between two to three storeys, the commercial buildings have a height of 12.5m, in keeping with the existing height of Almond House and the heights across the site are varied to take into account existing topography and the sensitivity of key views. Nevertheless, it is considered that the height of the resultant dwellings should be controlled by a condition to require the proposed ground levels, sections through the site/buildings and details of the finished heights of the proposed buildings, to ensure that the height of the proposed dwellings are appropriate and acceptable in respect of visual amenities in the round.

- 2.70 It is therefore concluded that the scheme does not give rise to any unacceptable impacts on the visual amenity of the site or the surrounding landscape character. As such, the proposal is in accordance with policy DM16 of the Core Strategy and paragraph 170 of the NPPF, as no significant harm has been identified that cannot be mitigated accordingly.

#### Highway Impacts and PRow

- 2.71 The relevant Core Strategy policies are DM11 and to a lesser degree policies DM12 and DM13. DM11 requires planning applications for development that would increase travel demand should be supported by a systematic assessment to quantify the amount and type of travel likely to be generated and include measures that satisfy demand to maximize walking, cycling and the use of public transport. Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- 2.72 Policy DM12 requires that developments that would involve the construction of a new access onto a trunk or primary road will not be permitted if there would be a significant increase in the risk of crashes or traffic delays unless the proposals can incorporate measures that provide sufficient mitigation. Whilst policy DM13 requires that development provides a level of car and cycle parking which balances the characteristics of the site, the locality, the nature of the proposed development and design objectives.
- 2.73 The application site would be accessed off the A258 Sandwich Road roundabout, to the east of the application site with access from Betteshanger Road utilising the existing roads and junctions. An access road already extends into the development site, with the developable areas serviced off a roundabout forming Colliery Way. This infrastructure including surface water drainage was all implemented under the outline permission for a business use on the application site. The layout of the roads within the site would be addressed at a reserved matters application. Vehicular access from Broad Lane will also be retained as existing, with traffic calming measures in place. This is expected to be used as a secondary access and needs to remain a through route as it is used by Intercrop.
- 2.74 The highway position has been considered in detail by KCC Highways (in consultation with our appointed highway consultants) following the submission of an updated transport assessment to address the planning status of the land. The revised assessment has considered the application as a new proposal using the most up to date traffic figures for the local area and is in line with the traffic assessments undertaken for the Local Plan Review (Reg 18).

- 2.75 The proposed residential development is likely to generate approximately 275 two-way vehicle movements, with 152 in the morning peak and 134 in the evening peak hours. This takes in account residential and commercial traffic and primary and secondary school traffic. The residual peak hour traffic generation as a result of the proposals is approximately 94 two-way vehicle trips, with a distribution at the site accesses of 27(am)/24(pm) trips to/from the north via the A258, 25(am)/41(pm) trips to/from the A256 to the west via the link between the site and Broad Lane, and 42(am)/28(pm) trips to/from the south via the A258. The assessment of the A258 route to/from the north shows that there is unlikely to be a severe impact, as a result of the development.
- 2.76 On the route to the south via the A258, the development adds only 9 turning movements (6 in and 3 out) at the A258 London Road/Mongeham Road junction. It is acknowledged that there is an existing section of Mongeham Road on the approach to London Road where the carriageway is of insufficient width for two vehicles to pass, and this can occasionally cause traffic to queue back into London Road when drivers having turned in from London Road then have to give way. The applicant has therefore proposed some works to improve the existing situation by formalising the existing informal give way arrangements, but for drivers heading towards London Road rather than those having turned in from London Road, which should prevent vehicles queuing back onto the A258. The scheme currently proposed will require a safety audit and need to complete a detailed design and approval process through the highway authority, however these requirements and highway works to the junction can be secured by a condition.
- 2.77 With regard to the A258 London Road/Manor Road roundabout junction, base modelling data is available through the work done for the draft Local Plan. This provides a forecast of the likely existing situation at the end of the Local Plan period in 2040 with committed development and traffic growth taken into account. The proposed development trips have been added to this scenario in order to assess their impact. The assessment shows that the average delay time for vehicles passing through the junction is likely to increase by 2-3 seconds as a result of the proposed development, which is not considered to be severe.
- 2.78 Due to the location of the site it is necessary to ensure that other means of transport are available, other than use of private cars. Discussions have taken place between Stagecoach and KCC Highways and Transportation to ensure the provision of bus services to the site. The application includes details of two new bus stops on the A258 Sandwich Road, near to the junction with Betteshanger Road. These comprise a bus stop in both directions on either side of the roundabout including a bus layby/pull in area and associated works. New and upgraded pedestrian footpaths are also proposed and the works include a pedestrian crossing to the south of the roundabout and an island crossing facility. Furthermore, there is the potential for a diversion of services through the site by providing appropriate infrastructure for a bus stop on Betteshanger Road. This has been agreed in principle by Stagecoach and future proofs the provision of a bus service. Details of this bus stop and its implementation can be secured through a condition. In addition, the indicative Masterplan submitted also indicates pedestrian access to/from Circular Road providing a connection to the existing bus stops, the detail of which can be resolved through reserved matters, nevertheless, a condition has been included to ensure this matter is adequately addressed at the required stage.



- 2.79 The off-site highway works including, two new bus stops, a pedestrian crossing on Sandwich Road, alterations to the Mongeham Road junction and upgrades to footpaths and associated road signage and lighting can be secured through a Section 278 highways agreement. All of the proposed works are either within highway land or land controlled by the applicant. This can be further secured through a condition, however the bus stop approved plans would be already secured within the approved plans condition. The site also has links to public transport within walking distance, as there is a bus stop at Circular Road.
- 2.80 Following additional survey work and clarification and a Stage 1 road safety audit for the proposed bus stops on Sandwich Road, KCC Highways have raised no objection, subject to conditions and have confirmed that the proposed junction and the proposed traffic is acceptable on the highway network and does not raise capacity or highway safety concerns. This has also taken into account committed development on other housing sites. KCC Highways have advised that the bus stops on Sandwich road should be secured prior to the use of the site commencing, a travel plan should be brought into use to further reduce dependency on private cars and EVC charging points should be provided. The proposed works do not therefore result in any highway safety or capacity concerns and accord with paragraph 109 of the NPPF.
- 2.81 KCC Highways have also advised that there is an existing footway/cycleway along Betteshanger Road within the site, providing a connection to the existing pedestrian/cycle route in Sandwich Road which then provides a route to/from Deal and the Betteshanger Park opposite the site. Access to the site by bus, cycle and on foot is therefore acceptable. In addition, a framework Travel Plan has been submitted and it is noted there is likely to be a net reduction in vehicle trips with the provision of new bus stops. A detailed Sustainable Travel Plan promoting and encouraging sustainable travel can, however, be secured by condition, which should consider funding discounts for bus travel and cycle purchase and an emphasis on sustainable travel.
- 2.82 KCC Public Rights of Way Team (PRoW) have also set out a number of requirements and a suggested condition, bearing in mind the high number of PRoW in the area and extending across the application site. The site is well served by PRoW and these form important links with the wider network (White Cliffs Trail and Miners Way Trail) and add to sustainable travel opportunities. PRoW EE367 runs adjacent to the site boundary linking the site with Northbourne and Fringlesham. PRoW EE368 is directly affected as it crosses the site between the two wetland areas and should be maintained throughout the development. There is a statutory duty to protect and improve the PRoW network and they are a material consideration. The applicant has referred to the enhancement of these PRoW, but no details have been provided at this stage. It is therefore reasonable to impose the requested PRoW Management Plan condition requested to ensure the PRoW can be fully maintained and enhanced throughout construction and post development stages. This would include surfacing details, signage and how access would be maintained. It is also agreed that the travel plan should set out in the suggested condition how this will encourage and enhance walking and cycling infrastructure.
- 2.83 For the above reasons, the site therefore has good connections to a number of facilities, with the nearby villages within walking or cycling distance. The proposals therefore provide good connections to the existing villages and the adjoining built form of Deal and the town through the enhancement and investment in these existing links that encourage both walking and cycling and

add to the sustainable travel options available from the application site, including bus connections that are to be enhanced and improved. This provides a good basis for more sustainable transport opportunities with the proposed travel plan encouraging their use and controlled through conditions. On this basis the requirements of NPPF policies and Policy DM11 of the CS have been fulfilled and the development is acceptable on these grounds.

- 2.84 Significant concerns have also been raised by third parties that the development would significantly and detrimentally increase and impact on traffic and the highway network in the area, which is identified as already struggling to cope with existing levels of traffic locally. In addition, that the site is not sustainable. It is however considered that with appropriate conditions, as discussed above, in place these concerns would to a sufficient degree, be addressed. On balance, it is not considered that the proposal would not result in a severe highway impact and would accord with the aims and objectives of paragraph 109 of the NPPF as well as local standards and planning policies. It provides sustainable travel options and the siting from a highways perspective is considered to be sustainable.
- 2.85 Policy DM13 of the Core Strategy requires that the provision of car parking should be a design led process, based upon the characteristics of the site, having regard for the Core Strategy. Whilst the layout of the development has not been submitted at this stage, the indicative details demonstrate that car parking can be provided in association with the proposed dwellings and employment uses. The submitted Transport Assessment confirms that such provision will be made in accordance with KCC guidance. Having regard for the density of the development, it is considered that the site is capable of providing the necessary car parking, subject to acceptable details at the Reserved Matters stage.
- 2.86 In conclusion, KCC Highways have considered in detail the revised proposals to be acceptable, subject to necessary conditions and agreements. The proposed impact on the highway is therefore not severe and accords with paragraph 109 of the NPPF, the impact on the local highways is consequently acceptable. Provision has also been made and secured for public transport and upgrades to footpaths and cycle routes that provide and encourage sustainable forms of transport. The highway issues are considered to be sound and acceptable from both highway safety and capacity perspectives. They fully accord with paragraph 109 of the NPPF and are therefore acceptable. There is therefore no highway grounds to refuse this planning application.

#### Drainage and Flooding

- 2.87 The majority of the site lies within Flood Risk Zone 1, where there is the lowest risk of flooding. However, Flood Risk Zones 2 & 3 extend across Betteshanger Road, close to the junction with the roundabout of the A256. Nevertheless, given the size of the site, it is appropriate to consider whether the development would be likely to lead to localised on or off-site flooding. The NPPF, paragraph 163, states that local planning authorities should ensure that flooding is not increased elsewhere, and priority should be given to the use of sustainable drainage systems. In furtherance to this, the Planning Practice Guidance states that sustainable drainage systems should be designed to control surface water run-off close to where it falls and replicate natural drainage as closely as possible.

- 2.88 A detailed Flood Risk Assessment (FRA) has been submitted in support of the application which confirms that flooding from tidal (including from the surrounding drainage network) and surface water is possible, but there is limited evidence of this due to the topography of the site, existing drainage and flood defences. Nevertheless, flood mitigation measures (floor levels above 150mm) have been recommended and have been identified to take into account a 1 in a 1000-year surface water flooding event. If Betteshanger road were to flood in an extreme event it is anticipated this would be below 0.3m and not a risk to life or access to the site.
- 2.89 In terms of surface water drainage, (including roads) the existing site is currently served by series of basins and wetland discharging into the watercourse as part of Sandwich Bay and Hacklinge Marsh. The proposed development site has been divided into seven drainage sub-catchments, which had drainage infrastructure installed and capped at each access. Storm water will be attenuated within each sub-catchment before discharging into the existing (but extended attenuation basins) and wetland at a controlled rate. The overall drainage strategy for the site is to upgrade and utilise the existing attenuation basins and wetland including flow restrictions to serve surface runoff from the proposed development. With the final total discharge from the wetland into the watercourse controlled at greenfield runoff rate. The wetlands are also to be extended to accommodate the run-off from surface water before discharging into the watercourse. The wetland also provides additional storage capacity in the event of an extreme storm event.
- 2.90 The FRA identifies that ground conditions do not support full infiltration for the discharge of surface runoff, due to the potential for ground contamination and potential leakage into the water network. However, infiltration rates have been demonstrated through testing with the discharge rate proposed at 27.8 l/s for the 1 in 100-year event with 40% climate change allowance. The site drainage also includes the use and combination of swales, permeable paving, the existing detention/attenuation basins and wetland to be used to discharge the surface water runoff to the existing river. The submission therefore fully demonstrates that the flooding can be accommodated within the site's existing but extended arrangements.
- 2.91 These methods of surface water disposal are considered acceptable for this site with KCC Flood and Water Management, the Lead Local Flood Authority, raising no objection in principle, subject to conditions relating to final details in respect of the surface water drainage measures and management and verification of the approved scheme. The proposed drainage measures for this outline proposal are therefore considered acceptable at this stage. The EA have also confirmed that drainage and other controlled measures on the site are appropriate subject to conditions and the Internal Drainage Board find the SuDS approach acceptable in principle but request further assessment to ensure the impact downstream and on ecology is acceptable.
- 2.92 Southern Water supplies water and foul waste at this location and they have raised concerns in relation to existing foul sewage disposal capacity for the proposed development. They have advised of the potential need for upgrades on the system and how this is expected to be funded as part of their capital schemes and infrastructure funding provisions. They advise that they require further details of the timing of delivery to ensure capacity is available and a formal application for a connection to the public sewer to be made by the applicant. They have not raised an objection to the proposal and have suggested

a condition in respect of details of foul drainage and timing of works to a line with infrastructure upgrades. As this is an outline application, such conditions can be imposed to provide suitable details before or as part of a reserved matters application. This does not preclude development and is the appropriate mechanism to address foul drainage capacity concerns.

- 2.93 The site already has a foul drainage system and sewers in place. There is an existing foul drainage treatment plant on site, adjacent to the wetland area, that already serves dwellings in Circular Road. It treats sewerage before pumping and discharging to the ground water system. The upgrading of this existing system is considered to be the most appropriate solution for the proposed development. The foul waste connects to an existing sewer pipe that flows east to the western boundary of the Country Park before discharging to ground water. It does not connect to the Deal town combined sewer. The proposal is therefore acceptable in this regard, subject to appropriate conditions and complies with the NPPF and all appropriate guidance.

#### Heritage Assets

- 2.94 The application is supported by an Archaeological Desk Based Assessment and Built Heritage Assessment that addresses the impact on heritage assets, listed buildings and archaeology on the site, in accordance with Paragraph 189 of the NPPF. This describes the significance of surrounding heritage assets and the associated impacts.
- 2.95 DDC Heritage, Historic England and KCC Archaeology have all provided comments on the application. Historic England and DDC Heritage have both confirmed that the proposed development will not have a detrimental impact on heritage assets in the area. The impact on the Northbourne Conservation Area and associated listing buildings has been assessed along with their interaction with the site and adjoining landscape. It is confirmed that due to the undulations of the land and the heavy vegetation screening there will be no impact on the relevant heritage assets and the site does not connect visually with the conservation area or Northbourne Court, a registered park and garden. Historic England have also raised no concerns. The impact on these heritage assets is therefore acceptable and raises no concerns from a heritage perspective and requires no further assessment as it complies with the relevant tests in the NPPF.
- 2.96 In terms of archaeology KCC Archaeology Unit have identified that the site lies within a landscape that is generally rich in archaeological remains. The applicant's desk-based assessment notes that it is unclear to what extent the construction of the colliery buildings and associated infrastructure would have impacted pre-colliery archaeological remains. It is possible that in some areas the former colliery's construction would have had a severe impact on below ground archaeology, but in other areas archaeological remains may have survived unaffected. Contrary to the applicant's desk-based assessment KCC Archaeology note that buried remains of the colliery itself might be of industrial archaeological interest. It is therefore recommended that given the archaeological potential of the site, a staged approach would be appropriate, whereby a combination pre-existing and acquired data could be used to better understand and model the likely survival of archaeological remains across the colliery site, including both pre-colliery and industrial archaeological remains in order to target appropriate mitigation works. Such mitigation works might include archaeological watching brief(s), but could also include targeted open-area

investigation, detailed excavation or indeed no further archaeological work. Therefore, a condition to require the implementation of a programme of archaeological works is necessary. On this basis potential archaeology can be addressed and the development is acceptable in this regard, in line with the NPPF.

#### Affordable Housing and Dwelling Mix

- 2.97 Core Strategy Policy DM5 and the adopted SPD require that for schemes of this scale, the Council should seek an on-site provision of 30% affordable housing. The applicant is proposing to provide the required 30% affordable housing, which amount to 63 dwellings. The affordable units should be designed and positioned in small clusters and be tenure blind. The Council would seek 70% (44 units) of the affordable units to be provided as affordable rented homes with the balance (19) provided as shared ownership units. It is considered that, subject to being secured through a condition or section 106 agreement, that would require further details of the provision and tenure, the development could accord with Policy DM5 of the CS and the Affordable Housing SPD. Further details of the affordable housing provision would be considered at the Reserved Matters stage, subject to design considerations. There is a need and a demand for affordable housing of all sizes and tenures across the district. The mix proposed includes 2 bed flats and 2, 3 bed houses. This mix would be supported as it meets the identified housing needs in the district and it is recommended that the shared ownership properties are predominantly 2-bedroom homes and flats. The proposal would therefore respond to the need for affordable housing through the provision of policy compliant affordable housing for local people.
- 2.98 The latest Strategic Housing Market Assessment (SHMA) identifies the broad split of demand for market housing to meet the prioritised needs of the district. At this outline stage limited indicative details of the dwellings have been provided, however, all units are expected to comply with minimum national space standards and will comprise 2, 3, 4 and 5 bed units, with the highest proportions being 3 (42.2%) and 4 (35.4%) bed units. Any reserved matters application would, however, need to be in line with the proposed Masterplan, but will also need to consider the need identified in the SHMA at that time. The proposed mix is considered to be appropriate at this stage and for its location.
- 2.99 The inclusion of self-build plots is strongly encouraged and fulfils a housing need requirement and government guidance for such provision. The self-build plots would need to be made available to people registered on the DDC Self-build register and the size of the plots should be suitable for the requirements of registered people. This will require the developer to provide serviced plots, but which should also facilitate semi-detached or terraced properties if required. The details of the proposed self-build plots would need to be considered further at Reserved Matters stage.
- 2.100 Policy CP4 of the Core Strategy requires applications for residential development for 10 or more dwellings to identify the purpose of the development in terms of creating, reinforcing the local housing market in which it is located and develop an appropriate housing mix and design, taking into account the guidance from the SHMA. It also identifies the need to create landmarks, foreground and background buildings, vistas and focal points in the layout of sites. It is noted that many of these aspects have been considered in the indicative layout and the layout is in line with relevant policies and design guidance. The policy also identifies a need to provide an appropriate density for development sites which

will be design led at the maximum level consistent with the site. Policy CP4 guidance is for a density wherever possible to exceed 40 dwellings net per hectare and will seldom be justified at less than 30 dwellings per hectare. The proposed development proposes a net density of 31 dwellings per hectare which is a medium to low density level. The density also reflects the large sections of landscaping being retained including woodland and the community park and is considered appropriate in relation to the character of this site and its relationship with its landscape context.

2.102 The density is also proposed to vary on the site with medium and higher densities occupying the core development area, focused around the central/community park. These will comprise mainly semi-detached and terrace house types as well as small apartment buildings, which will locally raise net densities in some areas. Detached dwellings will be focused towards the edges of the proposed development and to the west. It should be noted again that the eastern development parcel, adjacent to the wetland area has now been removed from the proposal, although still shown in the main masterplan submission document.

#### Layout and Residential Amenity

2.103 The precise location of the new build dwellings is not finalised at this stage, with this element being submitted in outline and indicative only. Consequently, the final layout, which will be the subject of an application for approval of reserved matters and would need to align with the masterplan and revised indicative layout. This plan seeks to demonstrate that the proposed development could be accommodated in a manner which would ensure that reasonable separation distances between new and existing properties and that reasonable a standard of accommodation and layout can be achieved. A detailed assessment would form part of any reserved matters application.

2.104 In terms of layout and design of the proposed housing is to follow Building for Life 12 principles and seeks to establish good urban design. It is considered that some revisions from the masterplan are expected, in particular the need to provide more frontage development throughout the residential areas and careful attention to the edges of the development platforms. These elements would need to be explored further were a reserved matters application forthcoming. In terms of design of the units limited details have been provided at this stage but it is proposed to use solar gain in the siting and provide overall provide a sustainable form of housing, including green roofs and solar panels. The applicant will also be encouraged to engage with Kent Police in respect of the need to establish Secured by Design principles and physical security requirements of Crime Prevention through Environmental Design. A condition to require such a scheme is suggested to address the concerns raised by Kent Police in their representation. It is expected this would be addressed at a reserved matters application.

2.105 Whilst the living conditions of the proposed new build dwellings cannot be established, the size of the site and the density of the development are more than sufficient to demonstrate that the proposed dwellings could be accommodated in a manner which would ensure a high standard of accommodation throughout. This includes additional noise mitigation measures for those dwellings facing Betteshanger Road that is addressed further below.

2.106 The development has the potential to cause some harm to the amenities of existing properties during the construction phase and a construction management plan should be required by condition to mitigate this potential harm. The construction management plan would limit the construction hours, provide dust management and ensure that mud is not deposited on the public highway.

#### Development Contributions

2.107 The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (CIL Regulations) require that requests for development contributions of various kinds must comply with three specific legal tests, being necessary, related to the development, and reasonably related in scale and kind.

2.108 Policy CP6 of the Core Strategy requires planning applications to provide an appropriate mechanism to ensure that any necessary infrastructure to support the development can be secured at the time it is needed. This policy therefore confirms the need to address any increased infrastructure needs as part of the application process. Such needs would be addressed in a s106 legal agreement, as long as all provisions comply with the relevant tests outlined in the NPPF and planning policy guidance. It is considered that the tests have been duly applied in the context of this planning application.

2.109 In accordance with Policy DM27 of the LALP, the development would be expected to provide Open Space on site, or a contribution towards off-site provision, to meet the Open Space demands which would be generated by the development. The developer is not proposing to provide the provision of formal public open space, only informal and therefore there is a requirement for a contribution towards the provision of an outdoor sports facilities' contribution. A children's play space already exists on site (located in the community park) and its provision is to be maintained and enhanced as part of the proposed development, therefore there is no requirement for an additional children's equipped play space. However, this provision needs to be addressed in the s106 agreement.

2.110 In terms of the outdoor sports facilities and the playing pitch strategy, it is not practical for this to be provided on site and there is a need to improve the sports facilities at the adjoining Betteshanger Social Club. The applicant has stated the intention to provide additional land to enhance sports facilities and is in discussions with the Trustees to agreed suitable arrangements, this provision needs to be secured in the s106 agreement. In terms of sports pitch provision, the same pitch is used for football and cricket. A contribution to secure additional pitch provision adjacent to the application site is considered to be the most appropriate location for the upgrading of pitch facilities. It has therefore been calculated that a proportionate contribution for the provision of an additional pitch is £94,196.96 is to be provided towards this outdoor sports provision and secured through a s106 agreement. With the payment of this contribution, ongoing maintenance and the transfer of land, the proposal would accord with Policy DM27 of the Core Strategy.

2.111 KCC Economic Development have advised that the development would increase demand for local facilities and services and where there is currently inadequate capacity to meet this additional need, contributions should be sought to provide infrastructure improvements proportional to meet the need generated.

2.112 The proposal would give rise to additional school pupils and the need can only be met through further expansion of primary school provision in Sandwich and Deal and expansion of Goodwin Academy in Deal. Total contributions of have been requested from this development to meet the need identified of £747,362 towards primary provision and £730,940 towards secondary provision. KCC have also requested contributions towards library resources, social care provision, youth services and community learning which are set out below. Additionally a waste contribution has also been requested, however, the basis for requesting a waste contribution has still to go through the consultation process with LPA's and on this basis the request cannot be confirmed to meet the required tests and will not be sought for the proposed development.

2.113 These contributions all ensure that the needs generated by the development would be met. It is considered that each of these requested contributions are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

2.114 NHS CCG have identified a need for a contribution from the development and the need for additional primary care facilities in Sandwich and Deal area of £181,440.

2.115 The applicant has agreed in principle the Heads of Terms in relation to these contributions, that are considered necessary to make the development acceptable in planning terms. The Heads of Terms are:

- Primary Education – towards primary schools within Sandwich/Deal Planning Areas – total £747,362
- Secondary Education- towards expansion at Goodwin Academy £4540 per dwelling or £730,940 in total
- Library - contribution towards Deal library services and bookstock of £11,644.50
- Social Care – contribution of £30,844.80 towards specialist care accommodation in the district
- Youth Service – contribution of £13,755 towards additional resources for Deal Youth Service
- Community Learning – contribution of £3,448.20 towards resources at Deal Adult Education Centre
- Thanet and Sandwich Coast Management Strategy - A total of £12,381.39 is required as a contribution towards mitigation strategy
- Off-site public open space – transfer of land for outdoor sports facilities at Betteshanger Social Club
- Playing Pitch Provision – contribution of £94,196.96 towards additional pitch provision
- NHS CCG - contribution towards General Practice in the Deal and Sandwich area of £181,440
- Monitoring per trigger event of £236 per event
- Payment of all associated legal costs.

The full range of contributions required by the development are being met by this proposal.

#### Other Material Considerations



- 2.116 The likelihood of contaminants on site is high due to the previous use of the land and elevated levels have been recorded following initial on-site testing. The proposed end use is residential and highly susceptible to risks of contamination. An initial contamination report has been submitted further remediation is required beyond the initial decontamination and remediation works undertaken by SEEDA some years ago. The contamination report has been assessed by both DDC Environmental Health and the Environment Agency who have both recommended the full suite of contamination conditions are required to ensure the next stages (remediation and verification) are adhered to accordingly to address contamination of the site and that any further contamination identified during construction will require further investigation and any further remediation/mitigation measures are submitted and approved. Such conditions appropriately address any potential contamination of the site. Environmental Health and the Environmental Agency both agree that subject to these conditions the development would adequately address contamination on site.
- 2.117 In terms of the previous mining operations and potential mine shafts it can be confirmed that these were filled and capped during the previous enabling works and would not be expected to cause future health and safety issues. The applicants have undergone the appropriate checks in this regard. The Coal Authority submitted a late representation of the need for a Coal Mining Risk Assessment. This was duly submitted and demonstrated that the risks have been addressed appropriately. The Coal Authority removed their holding objection and have suggested a number of conditions to safeguard against land stability issues associated with the former use.
- 2.118 During the course of this application, KCC reviewed and adopted their updated Kent Minerals and Waste Local Plan (2020). This requires under policy DM 7, a greater consideration and an assessment of the impact on safeguarded mineral deposits, being Brickearth (Other Areas) – Ashford, Canterbury, Dover, Shepway. The application falls therefore within the Dover District Minerals Safeguarding Area, even though it is not actively being extracted. As a result, there was a requirement for the applicant to submit a Minerals Assessment in support of the planning application. A Minerals Note was duly submitted and assessed by KCC. It has been concluded that due the relatively limited overall size of the site together with an absence of a brick making industry that is actively using this material strongly, it suggests that this mineral deposit is not of economic importance at this time. Therefore, it is considered that exemption 1 of Policy DM 7 can be invoked and the mineral deposit does not form a constraint to development.
- 2.119 A Noise Assessment has also been submitted that measures background noise levels to assess the predicated internal noise levels for the proposed dwellings. Except those properties facing Betteshanger Road internal noise levels will be acceptable. The proposed units facing Betteshanger Road will need to incorporate additional acoustic mitigation to provide the required internal level with windows shut, due to the existing noise associated with Intercrop uses. It is therefore appropriate to include a condition to require all properties to achieve the required internal noise levels with mitigation and ventilation as appropriate. This would address any noise concerns identified, in line with guidance.
- 2.120 External lighting details have not been submitted but would need to be appropriately mitigated at reserved matters stage. Other matters such as cycle parking, refuse storage and materials will also be required to be submitted at

reserved matters stage and would not be subject to scrutiny at this stage.

### **3. The Planning Balance & Conclusions**

- 3.1 The planning case for the development proposal is set out in detail within this report and is considered to be persuasive, save for the valid, and unresolved, objections and concerns which remain in relation to the ecological issues identified in the report. It is considered that these ecology concerns should be addressed by the submission of more appropriate and detailed mitigation and compensation proposals which address DDC's Natural Environment Officer's concerns, and then controlled through conditions and the terms of the s106. However, the proposals are not sufficiently clear at this stage and a further report will be provided to members once officers are satisfied that the ecology matters have been appropriately addressed. Nevertheless, if the ecology concerns cannot be satisfactorily addressed by the relevant parties, in accordance with the legislative and policy requirements, this will ultimately preclude a recommendation to grant planning permission in a future report.
- 3.2 In terms of the principle of development on this site, it has been demonstrated that the development accords with the objectives of the Development Plan and the NPPF, taken as a whole. The report sets out that residential development of this site is sustainable and in line with established policy objectives. The site has been identified for housing in the draft local plan and is found to be acceptable in terms of highway, drainage, landscape impact, layout, density, climate change considerations and the provision of affordable housing. Accordingly, it is appropriate to weigh up the significant economic, social and overall environmental benefits that do not result in demonstrable harm (notwithstanding ecology) of the proposal against any negative effects (again other than ecology) and conclude that the development is sustainable and could be granted planning permission in due course, in accordance with the approach identified in the NPPF.
- 3.3 The case for the economic, social and environmental objectives of sustainability set out in paragraph 8 of the NPPF has been made in the sustainability section of this report including a range of sustainable and environmentally friendly features, concluding that as a whole the proposal is a sustainable form of development with many benefits. Consequently, except for the identified ecological issues, the proposal has been found to be acceptable in all other material considerations. It is therefore an acceptable and sustainable site for residential development and it is recommended that Members indicate that they are minded to approve the proposal in principle as it meets the overarching objectives of the Core Strategy and the framework in the NPPF as whole. The NPPF provides clear policy support for the proposals, the 'tilted balance' applies and in accordance with Paragraph 11 (d) planning permission should be granted for the development "unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".
- 3.4 When weighing up the benefits of the development identified in the report, although there is a significant amount of local objection to the proposed development there identified harm (subject to the resolution of ecology) that would significantly and demonstrably outweigh the benefits of providing additional housing on this site that is not countryside but a partially developed site within the district, including the provision of 30% affordable housing, employment floorspace and community benefits, including the wide range of

development contributions towards local infrastructure set out above that have all been agreed in principle.

- 3.5 Additionally, the applicants have also identified their position in terms of the development being sustainable and the under delivery of housing sites. As referred to above, the Council has a 5-year supply of housing that can be delivered, however, there is also a need to provide additional housing sites in the Local Plan Review (Reg 18). It is therefore appropriate to approve in principle residential development on this site. A more in-depth discussion of the Council's housing land position and its deliverability is not, therefore, required at this stage. The proposed development of up to 210 dwellings will be a substantial contribution to the availability of housing within the district and will contribute towards the 569 units per annum now required under the methodology for housing need.
- 3.6 The proposal represents a commitment to delivering a positive outcome for the site and the surrounding area, balanced across a wide range of considerations. The only outstanding issue is the ecology position and the need for this to be resolved before a formal decision can be made. All other material considerations have been dealt with satisfactorily and are in line with the development plan and NPPF Framework taken as a whole and can be controlled through the suggested conditions and s106. The principle of development is therefore accepted, notwithstanding ecology.
- 3.7 The application is therefore at a stage where ecology still hasn't been adequately addressed, but there is a likelihood that it could be, although further work, including additional surveys, are required. On this basis, it is recommended that Members are requested to be minded to approve the scheme in principle at this stage to provide a level of certainty and confidence for the developer to progress with the necessary ecology work that will be reported back to planning committee in a further report once officers are satisfied each aspect has been adequately addressed in line with guidance and legislation. Officers are satisfied that all other matters have been addressed in accordance with planning policies, save for ecology and request that Members are minded to approve in principle outline development on this site.

#### **4. Recommendation**

I The Planning Committee indicates that it is MINDED TO GRANT PLANNING PERMISSION subject to the resolution of the outstanding ecology matters (set out above) and to the consideration of a further report to Planning Committee for a final decision.

II A Section 106 legal agreement to secure necessary planning contributions set out above and subject to the following conditions to include:

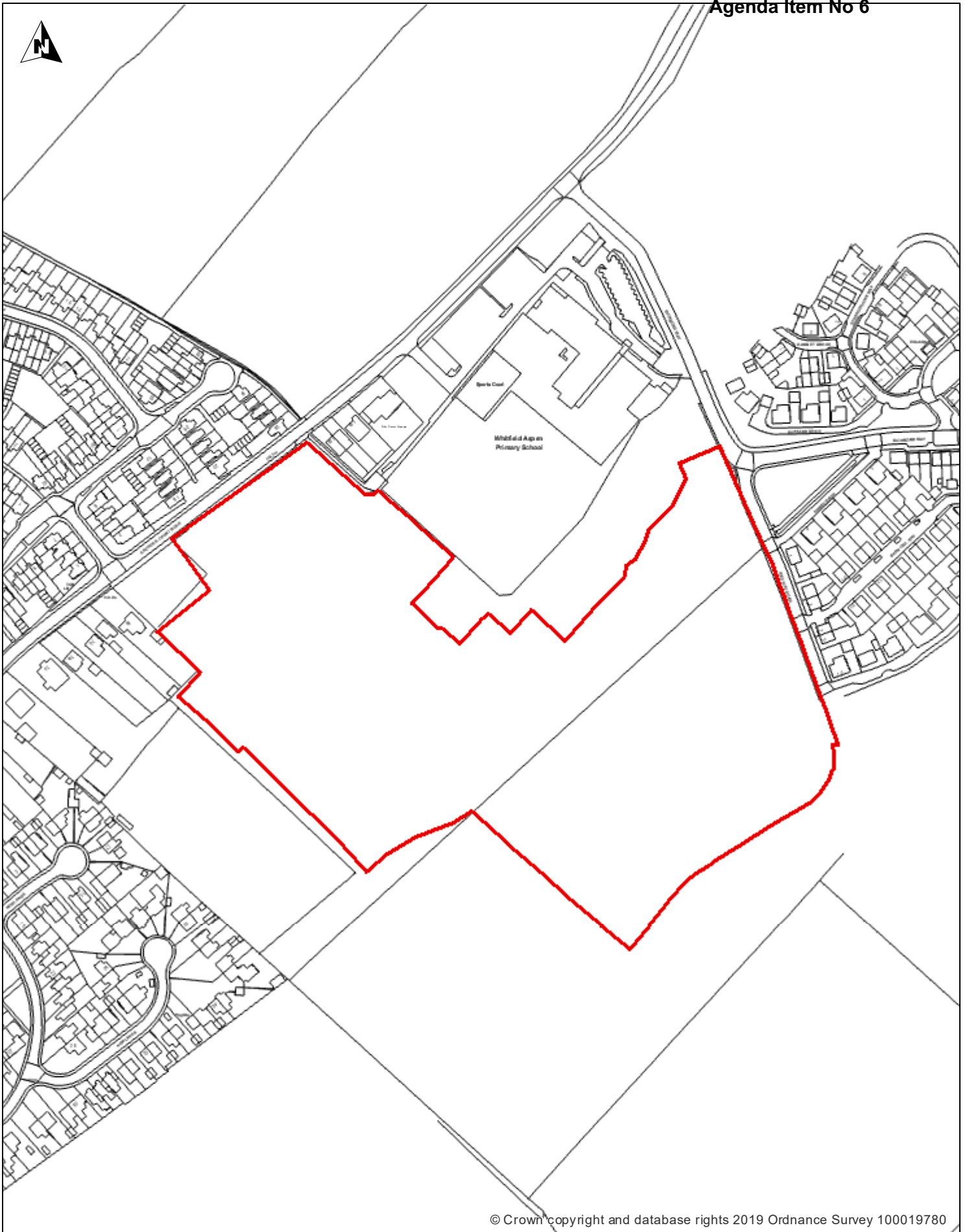
- 1) Reserved matters details
- 2) Outline time limit
- 3) Approved plans
- 4) Phasing plan to be approved in writing
- 5) Self-build design code to be agreed as part of RM
- 6) Details of play space to form part of RM
- 7) Existing and proposed site levels and building heights

- 8) Internal acoustic requirements for dwellings
- 9) Construction Management Plan
- 10) Highway conditions (parking, visibility splays, highway works fully implemented, turning facilities, cycle parking, gradient, surface, works to all footpaths and drainage, bond surface, surface water)
- 11) Sustainable Travel Plan to be agreed prior to commencement
- 12) Completion of the A258 Sandwich Road bus stop scheme prior to first occupation
- 13) PROW upgrades and management scheme
- 14) Completion of off-site improvements to Mongeham Road prior to commencement and subject to a safety audit process
- 15) Provision and maintenance of a pedestrian connection to Circular Road
- 16) Landscaping Details and maintenance of green spaces
- 17) Open space management plan
- 18) Protection of Trees and Hedges and root protection zones
- 19) Hard landscaping works and boundary details/enclosures
- 20) Reporting of unexpected land contamination
- 21) No works on site until final SuDS details are submitted
- 22) Design details of surface Water drainage strategy
- 23) Implementation and verification of SuDS scheme
- 24) No other infiltration on site other than that approved
- 25) Full foul drainage strategy for approval
- 26) Environmental Construction Management Plan
- 27) Internal noise levels
- 28) Programme of archaeological works
- 29) Details to be submitted at RM for compliance with Secured by Design principles
- 30) EVC points for each dwelling & 10% unallocated & employment parking spaces
- 31) Broadband connection
- 32) 4 Stage contamination, remediation and verification conditions
- 33) Reporting of unexpected land contamination
- 34) Update survey to be carried out for Badger prior to commencement
- 35) Production of ecological mitigation strategy setting out safeguards to be implemented during the construction phase
- 36) Production and implementation of method statement for translocation of notable plant species (including Grass-poly) and invertebrates
- 37) Production of detailed management plan for retained onsite habitats and new habitat creation, to include details of green roof/brownfield habitat provision and faunal habitat features
- 38) Production of detailed management plan for the open mosaic habitat management area within the country park
- 39) Design of a sensitive lighting scheme in relation to bats and other nocturnal species
- 40) Implementation of a habitat manipulation exercise in relation to reptiles
- 41) Works affecting nesting bird habitat to be undertaken outside of the nesting bird season, or following nesting bird checks
- 42) Sustainable energy measures to be approved in accordance with the approved Energy Statement and Sustainability Assessment
- 43) BREEAM very good criteria for commercial buildings

III 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 recommendation and as resolved by the Planning Committee.

Case Officer: Lucinda Roach



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20/00640

Whitfield Urban Extension Phase 1C  
Archers Court Road  
Whitfield

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/20/00640 – Reserved matters application pursuant to DOV/10/01010 - relating to layout, scale, landscaping, internal access arrangements and appearance for 185 dwellings (Phase 1c) (amended plans and description) - Whitfield Urban Extension Phase 1C, Archers Court Road, Whitfield**

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

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policies and Guidance**

**Core Strategy Policies**

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy.
- CP3 – Of the 14,000 houses identified by the plan 9,700 (around 70%) is identified for Dover.
- CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- CP11 – Provides a framework against which applications for the managed expansion of Whitfield will be assessed.
- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM5 – Development of 15 or more dwellings should provide 30% of the total homes proposed as affordable homes.
- DM11 – Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- DM12 – Planning applications which would involve the increased use of an existing access onto a trunk or primary road will not be permitted if there would be a significant increase in the risk of crashes or traffic delays unless the proposals can incorporate measures to provide sufficient mitigation.
- DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.
- 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.

- DM16 - Development that would harm the character of the landscape will only be permitted if it incorporates any necessary mitigation measure.
- DM17 – Development which could cause possible contamination to groundwater will not be permitted within Groundwater Protection Zones 1 or 2.

#### Land Allocations Local Plan

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

#### Whitfield Urban Expansion SPD

- The SPD carried forward the requirements in Policy CP11 of the adopted Core Strategy to provide a framework for the preparation of subsequent planning applications proposing to develop the site and aims to give certainty to local people and developers. It enshrined the need for good design and high standards of amenity. The document states that the preference is for a progressive anti-clockwise phasing of the development starting from the south east. The SPD states out that within Light Hill (Phase 1), development should average 41dph. An area of downland should be created adjacent to the A2 to reinforce green infrastructure and soften the visual impacts of the development. The new access from the A256 should convey a sense of place. Housing density and typologies should take into account landscape features, sensitive location issues such as noise and activity levels, edge of development locations and the street hierarchy and relationship of the development to the adjoining built form character. Design should be influenced by local characteristics and details. Public right of way linkages across the A256 should be safe for non-vehicular connections to the countryside and land should be safeguarded for future bus and or cycle/pedestrian links across the A2. There should be suitable traffic management measures for Archers Court Road. There should be a string sequence of wetland features within the open space corridor along the valley floor. The character of Archers Court Road should be strengthened through tree planting and continuity of built frontage. Finally, landmark areas and visual breaks in the development area through the use of structural tree canopies and public realm spaces should be provided. Applications for less than the whole development will be expected to demonstrate that they will not prejudice the implementation of the whole development. The SPD is, of necessity, based upon a set of assumptions, informed by evidence, about the needs and impacts of the development. As development progresses, there will be a need to monitor the actual characteristics of the development, review the resultant information and use it to inform the preparation and determination of subsequent phases (monitor, review and adjust). This should include monitoring of matters such as housing mix, population forecasts, traffic impacts and forecasts, infrastructure needs and delivery, usage and management of green infrastructure, and impacts on European designated wildlife sites.

#### Draft Local Plan (Regulation 18)

- 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.



## National Planning Policy Framework (NPPF)

- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including where an LPA cannot demonstrate a five year housing land supply), granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance (set out in footnote 6) provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole
- Paragraph 12 states that the NPPF does not change the statutory status of the development plan. Development which accords with an up-to-date development plan should be approved and development which conflicts should be refused unless other material considerations indicate otherwise.
- Chapter five of the NPPF confirms that the Government's objective is to significantly boost the supply of homes and requires authorities to seek to deliver a sufficient supply of homes, based on a local housing need assessment. The size, type and tenure of housing for different groups in the community should be assessed and reflected in policies. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless:
  - 1. off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
  - 2. the agreed approach contributes to the objective of creating mixed and balanced communities

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

- Chapter eight encourages development to aim to achieve healthy, inclusive and safe places by, amongst other things: promoting social interaction; allowing easy pedestrian and cycle connections; providing active street frontages; supporting healthy lifestyles; and ensuring that there is a sufficient choice of school places to meet the needs of existing and new communities. Of particular importance to this application is the promotion of safe and accessible green infrastructure and sports facilities. Paragraph 97 advises that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
  - an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

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

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

- Chapter fourteen requires that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk. Development should be directed away from areas at the highest risk of

flooding. Major development should incorporate sustainable drainage systems unless there is clear evidence that this would not be appropriate.

- Chapter sixteen requires that applicants describe the significance of any heritage assets affected by the development, including any contribution to their setting. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Account should be taken when determining applications of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness. Great weight should be given to the conservation of designated heritage assets. Where total loss of or substantial harm to a designated heritage asset would be caused, permission should be refused unless the exceptions at paragraph 195 are met. Where less than substantial harm would be caused this harm should be weighed against the public benefits. The effect on the significance of non-designated heritage assets should be taken into account

#### The Kent Design Guide and National Design Guide

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

#### d) Relevant Planning History

DOV/10/01010 - Outline planning application for the construction of up to 1,400 units, comprising a mix of 2-5 bed units, 66 bed care home (Class C2) and supported living units, with vehicular access off the A256; provision of new 420 place 2FE Primary School including early years provision, energy centre and local centre comprising up to 250sqm of retail space (Class A1-A3) along with all associated access arrangements, car parking, infrastructure and landscaping, with all matters (except the means of access off the A256) reserved for future consideration. (Revised Proposals) - Granted

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

DOV/15/00878 - Reserved matters application pursuant to outline permission DOV/10/01010, relating to the appearance, layout and landscaping of 94no. dwellings together with garages and parking including all highway related details, sub phase 1A, Phase 1, (Light Hill) Whitfield Urban Expansion – Granted.

DOV/16/01314 - Reserved Matters application pursuant to outline permission DOV/10/1010, relating to appearance, layout and landscaping of 94 dwellings together with garages and parking including all highway related details, sub phase 1a, Phase 1 (Light Hill) Whitfield Urban Expansion (Revision to Reserved Matters submission DOV/15/00878 in respect of reduction of previously approved Plots 1-9

(9 semi-detached dwellings) to 5 detached dwellings - Revised total of 90 dwellings for sub-phase1a) – Granted

DOV/17/01057 (KCC Application) – Construction of a two form entry (2FE) mainstream school plus 1FE SEN school, including the erection of a two storey school building; provision of hard and soft play space; sports pitches and MUGA; vehicular and pedestrian access, car parking and cycle parking spaces and associated hard and soft landscaping - Granted

DOV/17/01525 - Reserved matters application for the appearance, landscaping, layout and scale (part of Phase 1B) for 32 dwellings pursuant to outline permission DOV/10/01010 (amended site plan) – Granted

DOV/18/01238 - Reserved matters application for the approval of part of Phase 1C, for 248 residential units, substation, appearance, landscaping, layout and scale in pursuant to outline application DOV/10/01010 for the development of 1,400 units, 66 bed care home and supported living units, vehicular access off the A256, primary school, energy centre and local centre with 250sqm of retail space (Class A1-A3) along with all associated access and car parking – Granted

DOV/20/00644 - Erection of a convenience store (A1), new vehicle access, erection of 2.4m and 3m high acoustic fencing, installation of air conditioning units and parking – Pending

DOV/20/00718 – Reserved matters application for 221 dwellings pursuant to outline permission DOV/10/01010, relating to the appearance, landscaping, layout and scale, at Phase 1D Whitfield Urban Extension - Granted

In addition to the above, there are numerous applications for the approval of details relating to conditions for applications DOV/10/01010 and DOV/10/01011.

Whilst predominantly on land outside of Phase 1, KCC have recently granted planning permission for the “creation of two new sections of road as dedicated Bus Rapid Transit route for buses, cyclists and pedestrians only. Section 1 - New road, 1.0km in length, connecting Whitfield Urban Expansion to Tesco roundabout at Honeywood Parkway via new overbridge over A2. Access to bridge will be controlled by bus gates. Section 2 - New road, 1.1km in length, connecting B&Q roundabout on Honeywood Parkway to Dover Road, near Frith Farm, with access to Dover Road controlled by a bus gate. Providing access to future phases of White Cliffs Business Park”, under application number KCC/DO/0178/2020 (Dover consultation reference is DOV/20/01048).

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

KCC Highways – *Initial comments received 21<sup>st</sup> July 2020:*

Requested amended drawings be submitted to resolve issues with the original submission. A series of 18 recommended changes were included regarding: clarification of the areas to be offered for adoption; junction design; provisions for speed restraint; surface details; the location and provision of footways and cycleways; the provision of bus stops; swept paths for larger vehicles; gradients; visibility; and parking.

*Further comments received 25<sup>th</sup> September 2020:*

Further amended drawings re requested in order to resolve remaining issues concerning the layout and parking.

*Further comments received 26<sup>th</sup> March 2021:*

The reduction in the red line area is noted. There remain outstanding issues which need to be resolved through amendments. These issues relate to the layout of the scheme and car parking.

*Further comments received 14<sup>th</sup> May 2021:*

I refer to the amended plans submitted for the above on 10 May and would comment as follows:

- The extent of street adoption now shown is acceptable in principle and the exact details can be resolved through the adoption process.
- I understand the widening of footpath ER63 to 3 metres to provide a shared footway/cycleway between the site and Archers Court Road has already been agreed under a condition approval attached to reserved matters application DOV/18/01238, requiring the facility to be in place prior to occupation of the 50th dwelling. This requirement would presumably still apply despite the current reserved matters application. However, I would express my disappointment that this section is not being widened to 4 metres as originally requested.
- I note the cycle paths alongside footpath ER71 are to remain private, as is Green Lane 03 which connects them. Whilst I still have concerns regarding these routes staying private and the lack of speed restraint in Green Lane 03, the responsibility for the same will rest with the private street manager. I accept that an alternative adoptable cycle route will be provided alongside the main spine road to the south.
- I understand the widening of the footway/cycleway in the main spine road to provide additional room at proposed bus stops would be unacceptable, due to the s.106 requirements for open space.
- Parking restrictions will need to be considered through the adoption process, particularly in relation to visibility where PROW's and cycleways cross the streets, and the potential for parking issues near the school.

I therefore now confirm that I would not raise objection to the proposals in respect of highway matters. Informatives are recommended.

Highways England – Highways England is satisfied that the development per se will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in MHCLG NPPF2019 Para 108-11 & Department for Transport Circular 02/13 Para 8 -11).

Therefore please take this email as our formal recommendation of No Objection to reserved matters application 20/00640.

DDC Housing Development Manager – The development does not propose affordable housing. There is a need for affordable housing of all types and tenures across the district

DDC Ecology – No comments

DDC Environmental Health – The Environmental Protection Team has considered this application and has no observations other than to confirm that the Clarke

Saunders Noise Impact Assessment AS11556 dated March 2020 is accepted in relation to condition 46. This includes its recommendation for standard double glazed units with trickle ventilation to be fitted to all units.

Kent Fire and Rescue – *Initial comments received 24<sup>th</sup> September 2020:*

I can confirm that on this occasion it is my opinion that the off-site access requirements of the Fire & Rescue Service have been met.

*Further comments received 31<sup>st</sup> March 2021:*

I have examined the plans available on the planning portal for application number 20/00640 specifically drawing number 19376-0000-0009 and it is my opinion that the off-site access requirements have been met. The access to the proposed buildings or extended buildings at the site upon which the building work is to take place, is termed the 'on-site' access which 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.

Kent Police – Before Kent Police can recommend approval they would need to see details of how this application can minimise the opportunity for crime. In particular, they have advised that: permeability should be reduced to a minimum; measures should be put in place to deter vehicles from causing anti-social behaviour; opportunities for natural surveillance should be exploited; measures should be put in place to make properties secure, such as using prickly vegetation, secure windows and doors and providing lighting approved by a professional lighting engineer; avoiding secluded areas; and that there should be site security during construction.

Natural England – No objection

Environment Agency – No comments

KCC PROW – *Initial response received 22nd July 2020:*

Public Footpaths ER63 & ER71 are directly affected by the development. Public Footpath ER63 is shown as Foot/Cycle Path. This route is a recorded Public Footpath with pedestrian rights only and should therefore be shown as such. Relevant detail of path number and status should be included on all plans for reference. Any proposal to create a cycleway should be forwarded to KCC as soon as possible; if there is any intention to widen or divert the route again KCC should be notified to allow discussion of the process. The same applies to Public Footpath ER71, shown as Foot/Cycle Path, and the proposed diversion route should be shown as proposed rather than new. KCC PROW will require exact specification details for the new surface for approval, rather than an example. We also require confirmation that the length of ER63 from the spine road to the section within the red line boundary and then again to the school (Archers Court Road end) is to be included in the improvements. All tree/ hedge/shrub planting should be at least 2m ideally 3m from the edge of the PROW to prevent overgrowth from obstructing use and to allow light and air to reach the highway surface. There should be clear differentiation between a footway/footpath and a recorded Public Right of Way. A section of Public Footpath ER63 appears to be included in the shaded area on the plan as part of "roads to be adopted". KCC PROW request clarification of this; it not only contradicts other plans and intentions in the application but if adopted a route is removed from the Definitive Map and is no longer a Right of Way. The PROW key should be amended – the green dashed line is not a

proposed new Public Right of Way; it is a proposed new route of existing Public Footpath ER71.

*Subsequent response received 14<sup>th</sup> May 2021:*

I can confirm that KCC PROW have no further objections following amended plans.

KCC SUDS – *Initial response received 6<sup>th</sup> October 2020:*

The Lead Local Flood Authority have reviewed the Flood Risk and Surface Water Strategy prepared by Odyssey dated August 2020 and agree in principle to the proposed development. The overland flow path as previously discussed has been modelled and shown on the drawings confirming that the surface water and overland flow can be accommodated within the design. It recommends approval of the drainage strategy under application DOV/10/01010 provided the LPA is satisfied that the materials and appearance of the proposed hard surfaces are consistent with other documents submitted for reserved matters approval.

KCC Archaeology – Archaeological evaluation works (trial trenching) has taken place on site. KCC are yet to receive a report on this work, but the Senior Archaeological Officer was able to monitor the trenching to observe the works in the field. The evaluation has confirmed the presence of a double ring-ditch in the western part of the site. This ring-ditch represents the remains of a Prehistoric barrow (burial mound) of probable Late Neolithic or Early Bronze Age date. The twin encircling ditches are likely to demark a central burial, with the soil from the excavation of the ditches being originally used to raise a central barrow mound over the burial. It is possible, though not proved during the evaluation, that further secondary / satellite burials may also have been inserted into and / or around the mound. The covering mound has subsequently been lost to erosion through ploughing, but the monument's encircling ditches (and potentially any accompanying burials) have been demonstrated to survive. It lies within the area currently proposed for development, albeit close to an area of proposed open-space. It is questioned whether the layout of the development in this part of the site could be modified so that the barrow monument can be taken out of the development area and preserved in situ. If not, then the barrow will require full detailed archaeological excavation and the applicant may wish to consider the implications of this against revising the layout to ensure its preservation.

Southern Water – No objection

Whitfield Parish Council – *Initial response received 27<sup>th</sup> July 2020:*

Object. The development would result in the loss of the designated open space and green buffer. The application does not comply with conditions attached to the outline planning permission or the Whitfield SPD and is contrary to the reassurances given to residents. To build up to the boundary of Archer's Court Road will cause unacceptable loss of amenity to nearby Residents and have an overbearing impact on the character of the area. The parish council request that the application be refused.

*Subsequent response received 21<sup>st</sup> September 2020:*

Whitfield Parish Council object to this application and have no further comments to add to the objections which have already been submitted.

Public Representations – 18 letters of objections have been received, raising the following points:

- The development would lead to the loss of Open Space secured by the outline permission
- The layout doesn't comply with the SPD or the outline planning permission
- The provision of housing directly adjacent to Archers Court Road removes landscaping which would have softened the development
- Increased use of the footpaths in the area (and the use of front gardens as a short cut) and a need for the retention of existing and provision of new footpaths
- Insufficient highway capacity
- Vehicles travel too quickly along Archers Court Road
- Lack of infrastructure
- Overlooking and sense of enclosure
- Impact on wildlife
- Litter
- Lack of affordable housing
- There are too many houses

- f) 1. **The Site and the Proposal**
- 1.1 This application relates to an area of former agricultural land. The land lies between Whitfield, to the north west, and agricultural land to the south east, beyond which is the A256. To the north are parcels of land on which housing has been, or is being, built. The Public Rights of Way ER63 and ER71 runs through the site, the first of which runs roughly south east to north west, where it crosses Archers Court Road. The later runs roughly south west to north east and runs through the previously approved phases of the development and on towards Pineham to the north east and, to the south west, towards the A2 before which it joins the ER54. The land, whilst relatively flat, falls gradually from west to east.
- 1.2 The land is allocated for residential development under Policy CP11 of the Dover District Core Strategy. This policy allows for at least 5,750 dwelling across the entire allocation, together with all the necessary infrastructure, health, education, social care and commercial development required to support the residential use. This application relates to Phase 1 of the Whitfield Urban Expansion (Light Hill). The site is located to the west and south west of sub phases 1A and 1B, which related to reserved matters approvals for 94 dwellings and 32 dwellings respectively. To the south, is Phase 1D, which was recently granted planning permission for the erection of 221 dwellings. To the north, and currently under construction, is the new primary school which is being delivered as part of the Whitfield Urban Expansion. The proposed spine road, which would link the new roundabout on the A256 with Archers Court Road, would run along the eastern edge of the site. Permission has also recently been granted for the provision of a Bus Rapid Transit system, to be known as Dover Fastrack. The route for this express bus service would run along the southern and eastern boundaries of the site. The outline permission included consideration of access, insofar as it related to the access road from the A256.
- 1.3 This application seeks reserved matters approval for the erection of 185 dwellings, together with green infrastructure, access roads, footpaths and cycle ways and associated infrastructure. The reserved matters for which



permission is sought are appearance, landscaping, layout and scale (although for clarity internal access roads are also detailed).

## 2. **Main Issues**

2.1 The main issues are:

- The principle of the development and compliance with the Whitfield Urban Expansion SPD
- The impact on the character and appearance of the area and the historic environment
- The impact on neighbouring properties
- The impact on the highway network

## **Assessment**

### Principle

2.2 Before considering the principle of the development, it is necessary to consider the impact that the publication of the Regulation 18 plan has on the assessment of this application. 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.

2.3 The principle of the development was considered at the outline stage and is not for consideration at this reserved matters stage. Application DOV/10/01010 established that the principle of the development is acceptable. Whilst, in some respects, circumstances have moved on since the outline permission was granted (The NPPF, publication of the Regulation 18 plan, changes to planning guidance etc.), I am satisfied that these do not affect the principle of this development, for the purposes of assessing this reserved matters application.

2.4 Notwithstanding the above, the starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan, unless material considerations indicate otherwise.

2.5 Paragraph 11 of the NPPF states that development which accords with an up to date development plan should be approved without delay whilst, where there are no relevant development plan policies or where the most important policies are out of date, permission should be granted unless policies in the NPPF for protected areas or assets provide a clear reasoning for refusing the development or where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in NPPF as a whole. A footnote confirms that whether policies are out of date also include instances where the local planning authority cannot demonstrate a five year housing land supply or where the delivery of housing falls below 75% of the housing requirement in the previous three years.

2.6 It is considered that policies CP11, DM1, DM11 and DM15 are the 'most important' policies for determining this application. For completeness, the tilted

balance is not engaged for any other reason, as the council has a demonstrable five year housing land supply (5.39 years worth of supply) and have not failed to deliver at least 75% of the housing delivery test requirement (delivering 80%).

- 2.7 Policy CP11 relates specifically to the managed expansion of Whitfield. The policy allocates land for the provision of at least 5,750 dwellings, together with transport, primary education, primary health and social care, utility services and green infrastructure, together with local facilities to serve the development. The policy sets out a series of nine criteria against which development proposals will be assessed. These criteria seek to ensure that, amongst other things, the development is delivered holistically and provides a range of housing required by the district, a high standard of design, adequate transport linkages and is sustainable. Whilst some elements of the policy are more stringent than the NPPF, such as the requirement for achieve Code for Sustainable Homes level 4, the policy broadly reflects the NPP. As such, the policy is not out of date and continues to attract substantial weight. In term of the developments compliance with the policy, many of the requirements of the policy relate more closely to the outline application, which has been approved. However, as will be set out under the relevant chapters, it is considered that the reserved matters scheme would provide a high quality development and, overall, accords with policy CP11.
- 2.8 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 596 dwellings per annum. Policy DM1 places a blanket restriction on development which is located outside of settlement confines, which is significantly more restrictive than the NPPF. As a matter of judgement, it is considered that policy DM1 is out-of-date and, as a result, should carry reduced weight. Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located on land which is allocated for development in the plan and the development therefore accords with Policy DM1.
- 2.9 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. For the purposes of assessing this application, the site falls within the settlement confines and so is supported by DM11. This support is broadly 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. Whilst DM11 is slightly more restrictive than the NPPF, it is considered that DM11 is not out-of-date and should continue to attract significant weight. DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. Again, as the site is allocated for housing, and given that it adjoins the existing settlement the development accord with Policy DM11. The occupants of the development would be able to access most day to day facilities and services within Whitfield and would be able to reach these

facilities by more sustainable forms of transport, including walking and cycling. The site is located relatively close to public transport links.

- 2.10 Policy DM15 resists the loss of countryside (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside as a blanket approach is more stringent an approach than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development. There is therefore some tension between this Policy and the NPPF. Whilst it is not considered that this tension is sufficient to mean that the policy is out of date, it is considered that the policy attracts reduced weight. In this instance, the site forms a part of a housing allocation, with existing or consented development surrounding it. As such the development proposed by this application would have a limited impact on the character and beauty of the countryside.
- 2.11 Policy DM1 is out-of-date, whilst CP11, DM11 and DM15, whilst to differing degree are in tension with the NPPF, are not out-of-date. Whilst DM1 is important to the assessment of the application, it is considered that CP11 is critical and, on balance, it is therefore considered that the basket of 'most important policies' are not out of date and the 'tilted balance' described at paragraph 11 (d) of the NPPF is not engaged.

#### Masterplan and Approved Parameter Plans

- 2.12 The SPD was fully detailed in terms of the way in which the overall development of the WUE should take place, particularly strategic issues such as points of access and Green Infrastructure Strategy. Whilst the original submission did not accord with the parameter plans, the scheme has been amended to reduce the site area, omitting land adjacent to the boundary with Archers Court Road, and reduced the number of dwellings proposed.
- 2.13 There are a number of indicate plans which were approved as part of the outline planning permission. Whilst these are 'high level' in terms of their detailing, regard should be had to whether the agreed principles are adhered to.
- 2.14 The parameter plan identifies that all of the land within the application site area is for residential development, albeit areas are identified for landscaping and green corridors.
- 2.15 The 'land use' plan referenced by the Landscape Strategy Plan, which indicates areas of green space through this part of the wider Phase 1 site, with green space segregating the 'northern' and 'southern parts of this site and wrapping around the 'northern' part of the site. The amended scheme accords with both the 'land use' and Landscape Strategy plans.
- 2.16 The Landscape Strategy Plan – SAC Mitigation shows the areas of SAC mitigation which must be provided, equating to 4.28ha across the Phase 1 development of 1,250 dwellings. The site falls partly within the area identified for the provision of 1.993 ha of SAC Mitigation land, albeit the majority of this land is identified as being provided to the south west of the site. The application proposes 0.36ha of SAC mitigation land. The delivery of mitigation

land in line with the delivery of sub-phases is acceptable. The development would continue the 'corridor' of SAC Mitigation Land which runs south west from the new roundabout on the A256.

- 2.17 The Sport and Recreation Strategy Plan shows where existing and proposed PROW's, cycle routes, permissive footpaths, permissive bridleways and sports pitches will be located. The only feature which passes through the 1D site area is a proposed permissive bridleway which would follow the route of the 'recreational linkage' described above. I am satisfied therefore, that the development accords with The Sport and Recreation Strategy Plan.
- 2.18 The Public Realm and Open Space Strategy Plan identifies that, within this subphase there should be two areas of informal open space and two door step open spaces (small open areas to close to dwellings), albeit one of these area is arguably outside of the site area. The scheme now being considered proposes two informal open spaces and one of the 'door step' open spaces. Whilst the second 'door step' open space is not shown, the indicative plan suggests that it would be provided to the far north west of the site and partly outside of the site. Given that the plans exclude part of the area and the area of open space outside of the site adjacent to Archers Court Road, I am satisfied that the development would not prejudice the future provision of open space and accords with the Public Realm and Open Space Strategy Plan.
- 2.19 The building height plan indicates that development should be 2 storeys in height with some potential for 2.5 to 3 storey development along larger roads and fronting open space. The proposed buildings are predominantly two storeys in height, with taller two and half storey buildings fronting onto the open spaces and a short stretch of three storey buildings fronting onto the distributor road, such that the heights adhere to the envisaged building heights.
- 2.20 In overall terms, it is considered that this reserved matters application has now embraced the agreed principles for development, with the detailed plans demonstrating that regard has been had to the Concept Masterplan and the detailed guidance for development within the Light Hill Area. Building on the SPD, the outline permission included an indicative masterplan setting out how development might take place and the reserved matters submission largely follows that approach. The indicative masterplan sought to provide several a finger of green space running through this sub-phase, vegetation along the public right of way ER63 and open space between this sub-phase and the land to the rear of 70-76 Archers Court Road. As set out above, as originally submitted housing was to be provided adjacent to Archers Court Road on the land which had been identified at the outline application stage for the provision of a perimeter green corridor and recreation space. A significant number of objections were raised regarding this variation from the scheme envisaged at the outline stage. Following discussions with the applicant, amended plans were received which removed the open space land from the site area, such that housing is no longer proposed on this land. The amended scheme continues to propose the finger of green space through the site and the green space between the sub-phase and the land to the rear of 70-76 Archers Court Road. It is noted that the layout and form of development differs from that shown on the Masterplan, in particular to the west of the school site and to the south of Archers Court Road. I understand that it had been suggested that this area could facilitate the provision of the care home. Whilst the scheme doesn't mirror the Masterplan in this respect, the purpose of the Masterplan is not to prescribe precisely how development should come forward, but rather provide

an indication of how development should come forward. Consequently, it is concluded that the amended scheme aligns with the masterplan and would accord with the parameter plans, or would not prejudice the future provision of open space, sport and recreation, play space or landscaping, the precise details of which are secured by conditions attached to the outline permission.

- 2.21 The SPD set out a number of 'design prompts' for Light Hill which the current submission has responded to, the assessment of which will be detailed below.
- 2.22 It is acknowledged that significant and understandable concerns have been raised regarding the original submission. However, it is considered that the scaled back amended scheme has addressed these concerns. For the reasons outlined, I am therefore satisfied that the development accords with the SPD, the Indicative Masterplan and the approved indicative plans.

#### Character and Appearance

- 2.23 The layout of the development should be informed by the Whitfield Urban Expansion SPD – Adopted Masterplan, which was approved at the outline stage and provides a concept for the cohesive development of the allocation. A specific Masterplan for Phase 1 has also been approved.
- 2.24 The SPD carried forward the guidance in Policy CP11 of the adopted Core Strategy to provide a framework for the preparation of subsequent planning applications proposing to develop the site and aims to give certainty to local people and developers. It enshrined the need for good design and high standards of amenity and was taken into account in imposing suitable conditions regarding, for example, a requirement to submit and agree a Design Code when granting outline planning permission. This reserved matters application affords the opportunity to meet those objectives.
- 2.25 The SPD contains a concept Masterplan and in addition to stating general principles, identifies 5 large and distinct development areas. One of those areas called Light Hill was identified for some 1420 dwellings together with a 2 form entry Primary School, local centre and other supporting services/infrastructure. Paragraphs 5.84 to 5.95 set out guidance for the development of Light Hill and in particular, paragraph 5.95 sets out a series of design prompts. This application is for the third sub-phase (named 1C) of development within Light Hill and falls to be considered within this context. Sub phases 1A, 1B and 1D, together with a previous application for sub phase 1C were submitted by another developer. These previous phases shared a common theme in terms of their layout and detailed design. This application marks the first sub phase to be delivered by a different company, save for a small parcel between this application site and the school which they acquired recently.
- 2.26 Appendix 4 sets out a framework for Design Codes which are required to accompany a planning application. Appendix 5 gives detailed guidance for the submission of planning applications.
- 2.27 The amended site area is 5.95 hectares and would provide 185 dwellings, together with extensive areas of public open space (some of which is required as SAC Mitigation land). As such, the density of the developed part of the site equates to around 31 dwellings per hectare. Whilst this is below the density envisaged by the Masterplan (41dph), the phase would bring forward areas of open space and SAC mitigation land, allowing the slight shortfall in density to

be recompensed in future phases. In terms of the density within the net developable area, it would be around 37dph. It is acknowledged that the development of this part of the site is, in particular, required to provide a more verdant character and includes some of the larger dwellings required to provide an attractive character to the Distributor Road. There has also been a constraint of limiting accessing onto the Distributor Road, requiring groups of dwellings to be served from private driveways, rather than directly accessing the road. This constraint will not be present for many future parcels of land which are located away from the Distributor Road. Consequently, the density is considered to be acceptable.

- 2.28 The mix of dwellings (4 two-bed; 101 three-bed; and 80 four-bed) is skewed towards larger sized dwellings. The Masterplan advises that the overall mix within the Whitfield Urban Expansion should accord with the mix set out in the Core Strategy, albeit Policy CP11 requires that the mix of market housing be designed “to broaden Dover’s market offer and appeal and assist in attracting families and people of working age into the District”. Having regard for the Masterplan, the purpose of the development as set out in CP11, the characteristics of this parcel and the context in which it sits and the overall provision within Phase 1 to date, the mix is considered to be reasonable given. It is noted that the mix is comparable to the mix previously approved for Phase 1C, albeit the largest five-bed dwellings have now been omitted.
- 2.29 The development in other parcels which has been constructed or is being constructed lies to the north east of this parcel. It is considered that the connections between the current application and these consented areas is of particular importance, in order to provide a coherent character and to ensure that open areas are appropriately ‘framed’ or flow between one phase and the next. The permission for Phase 1A, which is now built out, provides a parkland setting either side of the Distributor Road to convey a good sense of place as envisaged by the SPD. Phase 1B, which is largely built out, provides a relatively self-contained, small parcel of dwellings to the north of the landscaped areas around PROW ER63 and an ‘edge’ to the amenity area to the north west of Phase 1A. The current application would ‘complete’ the enclosure of the amenity area and provide a strong frontage to the Distributor Road. The ‘finger’ of green space within the site would meet the bottom corner of the amenity area to provide a visual link between the phases and a continuation of the open space. To the south, the SAC mitigation land would continue on from the existing SAC mitigation land. The dwellings towards the south would be set back from the Distributor Road behind a shared driveway, presenting an opportunity for street trees, whilst plot 200 has been angled such that it would provide an appropriate response to what will be a prominent plot.
- 2.30 The layout of the development comprises a series of perimeter blocks, which provide for active frontages, a clear and legible layout and positive structure to the edge to the built development against the open spaces. Prominent car parking can often detract from the visual quality of developments of the scale and, whilst there are some relatively large areas of visible car parking, the amount of parking adjacent to the roads has been reduced through the use of concealed parking courts within the perimeter blocks. The layout of the development also accords with the masterplan principles. The development provides strong frontages onto Distributor Road, to the north of the SAC mitigation land, both of which would feature taller 2.5 and 3 storey dwellings in accordance with the approved parameter plans, and around the perimeter of the school, which reinforces the importance of these routes and areas through

the development. The dwellings themselves would be set back from the highway behind front gardens to provide a degree of visual relief, with the depth of the gardens responding to the hierarchy or width of the road which they address. The green spaces within the site, together with the buffer around PROW ER63 and tree planting between parking spaces and along highway verges provides opportunities for meaningful landscaping tree planting, whilst the smaller open spaces provide visual relief from the built development.

- 2.31 It is worth noting that there are three dwellings proposed which would not form part of a perimeter block and appear a little isolated. The rear elevations of plots 82, 83 and 84 would back the boundary of the site and would be visible across the open space from Archers Court Road. Whilst this is not ideal and would detract from the attractiveness of the scheme, this impact would be limited. Furthermore, given that the land to the north west is intended to provide open space, potentially with a Multi Use Games Area (MUGA), it is considered that over time landscaping and/or development associated with the recreational use of the land (such as a MUGA) would conceal the rear boundaries of these dwellings.
- 2.32 As this is the first phase of development which will be built by a new developer (all the previous phases being constructed by the housebuilder who secured the outline planning permission), the dwellings proposed would have comprise typologies which are new to the Whitfield Urban Expansion. That said, the scale and overall form of the proposed dwellings would be commensurate with the dwellings within the earlier phases of the development. Whilst the design and materials would not duplicate the dwellings which have already been constructed, it is considered that within a development of 1,250 dwelling, there is a need to vary the product to produce character areas and maintain interest as the repetition of house types across a large housing allocation can become monotonous and work against the visual interest of the development. Given that around 400 dwellings have been granted planning permission which conform to the same 'palette' of house types, it is considered that introducing new house types at this stage is appropriate. The proposed designs are of a comparable form to the previous approved dwellings but with a simplified, contemporary elevational design. The proposed units include a mixture of brick, with protruding porch detailing, brick detailing around the windows, and detailing to break the elevation up and provide interest. Windows will be set in reveals. The designs are undoubtedly a slight simplification compared with the approved dwellings in other phases; however, it is considered that they would sit comfortably adjacent to the approved housing. Whilst the design of the dwellings is not locally distinctive and perhaps does not make the most of the opportunities available on this site, it is not considered that the designs are unacceptable in the context of this site.
- 2.33 The dwellings would feature a mixture of materials, with different areas of the development being finished in different materials to provide character areas. These materials comprise red multistock bricks or yellow multistock bricks which would be paired with either slate grey, brown or red roof tiles. Car barns would be clad in timber weatherboarding. These materials would mirror the 28 dwellings which have been approved along the 'Spine Road' and Street 01', would face towards the school site. Given that the house types also mirror these units, it is considered that the materials are acceptable.

- 2.34 In most instances where boundaries between dwellings would be visible, brick walls are proposed. Elsewhere, and to the rear gardens of dwellings, closed boarded fences or larch lap fences are proposed. Again, these details replicate the boundary treatment detailed within earlier sub-phases and ensure that from public vantage points the development maintains a high quality character. Timber knee rails are proposed around the open spaces.
- 2.35 Overall, whilst it is somewhat disappointing that the housing types chosen are not locally distinctive, it is considered that the layout, scale and appearance of the development overall is acceptable, whilst landscaping proposed is of a good quality and would soften the development. As such, it is concluded that the visual impact of the development is acceptable.

#### Impact on Residential Amenity

- 2.36 The site would be well separated from existing dwellings within Whitfield, with the closest existing dwelling, No.160 Archers Court Road, being around 29m from the closest dwelling within the development, plot 35. With this exception of this dwelling, and its immediate neighbours which is slightly further away, the next closest existing dwellings, which are to the west of the site, being in excess of 90m from the site. Consequently, it is concluded that existing dwellings would not be subjected to any significant overlooking, loss of light or sense of enclosure.
- 2.37 Turning to the relationships between the proposed dwellings and those which have been granted reserved matters approval other sub-phases of Phase 1, the closest dwellings would be in sub-phase 1A and would be separated by around 24m. The closest dwellings within sub-phase 1B would be around 33m away and the closest dwellings within sub-phase 1D would be around 48m away. Given these separation distances, I am satisfied that no unacceptable loss of light, sense of enclosure or overlooking would be caused.
- 2.38 It is not considered that there are any other properties which would likely be affected by the proposals. Consequently, it is considered that the development would not result in an unacceptable loss of residential amenity to any neighbour.
- 2.39 The construction phase also has the potential to impact upon the living conditions of neighbours. In this case, the development would remain well separated from the majority of its neighbours, save for the properties on Archers Court Road to the north and neighbouring sub-phases within the Whitfield Urban Expansion. The outline permission acknowledged the potential impacts of the construction phase and sought to mitigate these impacts by way of a condition requiring that a construction management plan be submitted and approved prior to the development of each phase or sub-phase.
- 2.40 Turning to the living conditions of future occupiers, the proposed dwellings are arranged in perimeter blocks (or parts of perimeter blocks, with future sub-phases being capable of completing these blocks). This layout generally allows for reasonable separation between units, typically having back-to-back distances of around 22m. Whilst in some instances this distance would reduce it is not considered that this would be so close that it would cause an unacceptable standard of accommodation, particularly in circumstances where the dwellings would be angled away from each other. However, some relationships warrant further commentary, in particular the relationship



between the flats which are provided over garages (FOG's) and their neighbours. The FOG's are located significantly closer to their neighbours than any other type of dwelling proposed within the scheme, in some cases being separated by as little as 10m. The FOG's comprise car ports at ground floor level and two bedroom flats at first floor level. The buildings rise to 7.2m, with an eaves height of around 4.9m. Given the close relationship of these buildings to their neighbours, the gardens of neighbours would be likely to feel relatively enclosed, however, it is not considered that this sense of enclosure would be so significant that it would warrant refusal. Likewise, whilst the FOG's would reduce light reaching neighbours, this would not be severe. The FOG's are designed such that their windows face towards the road, with only high level roof lights to the rear roof slope. Consequently, the FOG's would not give rise to any unacceptable overlooking. Whilst the residential amenity of the FOG's and the dwellings close to them would be compromised, it is not considered that this is sufficiently poor to warrant refusal. In order to ensure that overlooking is not caused in the future, it would be appropriate to include a condition removing permitted development rights for the insertion of new windows. Likewise, it would be reasonable to ensure, by condition, that all windows which are identified on the plans as having obscure glazed windows are fitted with obscure glazing and that this glazing is maintained.

- 2.41 The proposed dwellings would generally be large in size and the majority, including all the largest dwellings, would have private rear gardens. Where flats are proposed, they would be located reasonably close to areas of public open space. All dwellings would be naturally lit and ventilated. It is not considered that any dwelling would be unacceptably impacted by noise or disturbance. For these reasons, it is considered that the living conditions for future occupiers would be acceptable.

#### Impact on the Local Highway Network

- 2.42 Details of the first section of the Distributor Road (Primary Street) and part of the Major Access Road have been approved as part of the outline planning permission and reserved matters approval for Phases 1A, 1B, 1D and the previous approval for Phase 1C (which could be implemented in full or in part). The current application would utilise the approved Distributor Road for access, with the parcel containing 'loops' of access roads to serve the development.
- 2.43 The initial submission drew significant concerns from KCC Highways, who advised that a substantial number of amendments would be required. Consequently, several sets of amendments were received to address these matters. The assessment in this report will focus on the latest set of amendments.
- 2.44 The application seeks to provide the main roads through the site to adoptable standards (the intention being to offer these routes for adoption). The internal roads and junctions, following amendments, now provide the required forward visibility, whilst adequate visibility splays would be provided to individual driveways and parking spaces. Tracking plans have also been provided to demonstrate that larger vehicles (fire appliances, refuse lorries etc.) can successfully and safely navigate the site. Access to and from the site and access through the site is therefore considered to be acceptable.
- 2.45 Policy DM13 of the Core Strategy requires developments to provide sufficient car parking, having regard for the scale of the development and its location. DM13 does, however, acknowledge that car parking provision should be

design-led. In accordance with condition 19 of the outline permission, this reserved matters application must be assessed in accordance with the parking standards of DM13.

- 2.46 The application would create a suburban development. In such locations, Table 1.1 of the Core Strategy advises that one and two bedroom dwellings should be provided with one parking space per unit; three bedroom dwellings should be provided with 1.5 car parking spaces; and dwellings with four or more bedrooms should be provided with two car parking spaces (although these figures are described as being minimums). In addition, 0.2 visitor spaces should be provided for each dwelling. Amendments have been made to the scheme during the course of the application, due to initial concerns regarding the provision of tandem spaces (not independently accessible), the proximity of car parking spaces to junctions, allocated spaces being shown which would affect the adoptable highway and the relationship between spaces and dwellings (where some spaces were poorly located in relation to the dwellings they would serve). The majority of dwellings would now be provided with two allocated car parking spaces with a total of 357 car parking spaces allocated to dwellings (185 dwellings are proposed); however, some dwellings would still be provided with tandem parking spaces, reducing the usability of one space. Whilst not ideal, the impact of this has been limited by providing a high number of visitor spaces (81 spaces compared with a need for a minimum of 37 spaces) and by providing easy routes from dwellings to these spaces. The visitor spaces have typically been well spaced out within the development, with slightly increased prevalence close to roads higher in the road hierarchy (Distributor or Major Access Road) and adjacent to landscaped spaces. This is important to ensure that all dwellings have access to visitor parking and that parking on the arterial routes is guarded against. Whilst the provision of tandem spaces is not ideal, using land whilst being of limited convenience, having regard for the generous provision of visitor spaces and car parking generally it is not considered that the amount or type of car parking would lead to significant harm to the highway.
- 2.47 Safe crossing points are indicated on parts of the Distributor Road which are likely to experience higher volumes of pedestrians and paths have been designed to respond to likely pedestrian desire lines. Concern has been raised by KCC Highways and Transportation and KCC PROW in relation to the limited provision of footpaths through the SAC Mitigation area, in response to which, mown paths through the grass have been shown. The consultees had sought the provision of a made path, as the route leads directly to bus stops and a crossing point and will therefore likely form a pedestrian desire line. The justification for the provision of a mown path as opposed to a made path is that the SAC Mitigation area is controlled by a previously approved SAC Mitigation Plan, the aim of which is to provide a naturalistic walking route for the occupants of the development to divert them away from using the existing SAC land to the south of the A2, which is susceptible to being damaged if overused. In addition, the land is being used for surface level water management. Consequently, the ability to introduce lots of hard landscaping is limited. Whilst I share the reservations of the consultees that a mown path is not ideal, I conclude that the provision of a mown path is a reasonable compromise. It is considered that it would be reasonable to require details for the maintenance of the mown paths in perpetuity to be submitted for approval, via condition.

- 2.48 There are two PROW which cross the site, the ER 63 which runs north west from Archers Court Road to south east and the ER71 which runs from north east to south west. The two cross each other to the south of the school site.
- 2.49 Concern has been raised that, following the reduction to the site area for this application, the last stretch of the PROW ER63 has been omitted from this application and, as such, the link cannot be secured by this application. However, the provision of an enhanced path joining Archers Court Road was secured by a condition attached to the outline permission and details of this path have now been submitted and approved. The highways officer has expressed disappointment that this path is 3m wide and not 4m wide, however, these details were approved following consultation with KCC PROW. Within the site and adjacent to the school, separate but adjoining footpaths and cycle paths are proposed, which would continue the separate paths approved under a previous application. This route continues around the boundary of the school. Further to the south, ER63 becomes a combined footpath and cycle path and would be set within a landscaped corridor and would link with ER71.
- 2.50 ER71 is proposed to be diverted a short distance to the south of its current alignment in order to provide an optimum layout for the development and the provision of surface water attenuation. The diversion would be minor and would not cause a significant delay. The diverted route would pass along the southern side of a landscaped area and would include a separate, hard surfaced, footpath together with a cycleway which would, in part utilise a shared surface. The route would retain a pleasant character, with the character changing from an unmade route through an agricultural field to a made route bounded by soft landscaping.
- 2.51 Overall, the development would provide safe and convenient vehicle access and car parking. Pedestrian and cycle access is, for the most part, well catered for. Where access is more constrained, this is due to competing land interests which limit the ability to provide a continuous north west to south east link. Whilst this is regrettable, it is considered to be unavoidable due to the need to retain a naturalistic environment and due to the need to manage surface water in this location.

### Ecology

- 2.52 Natural England have advised that the development will need to be carried out having regard for the approved SAC mitigation plan. This requires that areas of open space (together with walking paths) are provided in accordance with approved details. This will encourage occupants of the dwellings to avoid increasing the use of the nearby SAC land which could cause habitat damage. The proposal includes significant provision of SAC mitigation land. It is noted that the approved SPA mitigation strategy (which was approved in consultation with Natural England), requires that the initial provision of mitigation land be in excess of that required in quantitative terms, so as to provide a meaningful opportunity for recreation from the outset. The development had previously provided a temporary area of land to the west of the site, which will be replaced with the permanent provision around the access to the site from the A256 and around Phase 1A. The approved mitigation strategy requires that the permanent areas for SAC mitigation be provided and these areas have been seeded. The current application, as set out at paragraph 2.16, provides the necessary areas for SAC mitigation in accordance with the strategy.

2.53 The site itself provides limited habitat at present, comprising arable farmland and improved grassland. However, to the peripheries of the site and in a north east/south west line across part of the site (between the arable land and the improved grassland) there is a loose row of trees. Having regard for Natural England's Standing Advice, these features, due to their location and condition, are unlikely to support protected or notable species. This is supported by the ecological work carried out at the outline application stage (albeit this is now of only limited use, being written in 2011). Whilst it is not considered that these features are likely to be of ecological importance, it is noted that the site area has now been amended to set development away from the vegetation bounding Archers Court Road. For these reasons, it is not considered that ecology is a constraint to this application for approval of reserved matters. In reaching this conclusion, regard has been had for the conditions (37 to 43 inclusive) attached to the outline permission which require that up to date surveys are undertaken prior to the commencement of each sub-phase and vegetation clearance takes place outside of the breeding bird season.

#### Archaeology

2.54 Archaeology was considered at the outline application stage, with a condition (condition 44) being attached to the planning permission. The condition requires that, prior to development on each phase or sub-phase taking place, a programme of archaeological field works must take place and, if important remains are found or further archaeological works need to take place, safeguarding measures be put in place to preserve remains in situ.

2.55 KCC Archaeology have advised that evaluation works (trial trenching) has taken place on site and, whilst they are yet to receive the report, the Senior Archaeological Officer was able to monitor the trenching to observe the works in the field. KCC have advised that the evaluation has confirmed the presence of a double ring-ditch in the western part of the site, which represents the remains of a Prehistoric barrow (burial mound) of probable Late Neolithic or Early Bronze Age date. Whilst unproven, further secondary/satellite burials may also have been inserted into and/or around the mound. The covering mound has subsequently been lost to erosion through ploughing, but the monument's encircling ditches (and potentially any accompanying burials) have been demonstrated to survive. It lies within the area currently proposed for development, albeit close to the area of proposed open-space which runs along the western boundary of the site in a south east to north west direction. KCC have questioned whether the layout of the development could be amended to remove the barrow from the development area.

2.56 Under the amended scheme, the location of barrow corresponds approximately with the location of the shared drive off Green Lane 2, such that most of the likely location of the barrow would be under the road and verges. At this reserved matters stage, it is not considered that it would be reasonable to refuse permission based on the likely presence of a barrow, particularly as it has not been demonstrated that the amended scheme would be incompatible with the preservation of the barrow. Should the archaeological work conclude that the amended scheme is incompatible, it will be for the applicant to either submit a new application for reserved matters approval or, more likely, apply to make non-material changes to their scheme.

#### Drainage

- 2.57 A site wide surface water drainage strategy was approved as part of the outline permission, which outlined the broad principles which were to be relied upon in order to achieve sustainable drainage. Whilst detailed drainage details were not provided at the outline stage, the outline permission included a condition (Condition 50) which requires that a detailed strategy be submitted for each phase or sub-phase prior to the commencement of the development of that phase or sub-phase. To date, the details pursuant to the first sub-phase, 1A, has been submitted and approved.
- 2.58 The application has been supported by a Flood Risk and Surface Water Strategy, which sets out how surface water will be managed. KCC, as Lead Local Flood Authority have advised that the overland flow path (the existing area within the site which becomes saturated during extreme weather events) has been modelled and the submitted drawings demonstrate that this can be accommodated within the layout. The scheme proposed a series of shallow depressions within the landscape area which will be allowed to become wet during extreme events, albeit for the vast majority of the time they would be dry. KCC have advised that the surface water drainage strategy is therefore acceptable.
- 2.59 Foul drainage is addressed through a condition (Condition 51) which was attached to the outline permission and a clause in the S106 Agreement. The proposal would link into the system which has been approved through a Condition 51 submission, comprising a holding tank within the Phase 1 site which discharges to the Southern Water pumping station adjacent to Sandwich Road when it has capacity (the on site system and the Southern Water system communicate with each other to ensure that there is capacity. The approved system has sufficient capacity to meet the needs of all of Phase 1. Southern Water are also currently working on increasing the capacity of their pumping station, although the housing proposed by this application is not reliant on Southern Water's improvements.

#### Other Matters

- 2.60 Condition 46 attached to the outline permission requires that all dwellings be constructed such that their occupants are not unacceptably impacted by noise. Environmental Health have advised that the noise report submitted with this application (Clarke Saunders Noise Impact Assessment AS11556 dated March 2020) is acceptable, but request that its recommendation for standard double glazed units with trickle ventilation to be fitted to all units be secured by condition.
- 2.61 Representations have been received which comment on the lack of affordable housing being delivered within the development. Affordable housing and contributions were assessed at the outline stage, when it was concluded that due to the infrastructure costs associated with Phase 1, the development could not support affordable housing. The application before members is a reserved matters application to assess the appearance, layout, landscaping and scale of the development. The merits of whether the scheme can support affordable housing is not therefore pertinent to the determination of the matters being considered.
- 2.62 Many of the objection letters received raise concerns regarding the development encroaching on land identified for the provision of open space or that the scheme does not accord with the layout shown at the outline planning

permission stage. The scheme has been subsequently amended to remove development from the area identified for open space.

- 2.63 Kent police have made a number of recommendations in order to allow the development to gain Secure by Design accreditation. Some of their recommendations fall outside of the scope of planning whilst, in other respects, securing measures which could reduce crime or the fear of crime need to be balanced against other material considerations, for example balancing the disbenefits and benefits of permeable layouts. The development has been designed to generally avoid secluded areas and pedestrian alleyways, with the perimeter block layout providing for good natural surveillance and pedestrian accesses reserved for instances where access is necessary to achieve reasonable refuse carry distances. Overall, it is considered that the development strikes the right balance between securing good design, pedestrian and cycle friendly development and reducing the likelihood of crime or the fear of crime.

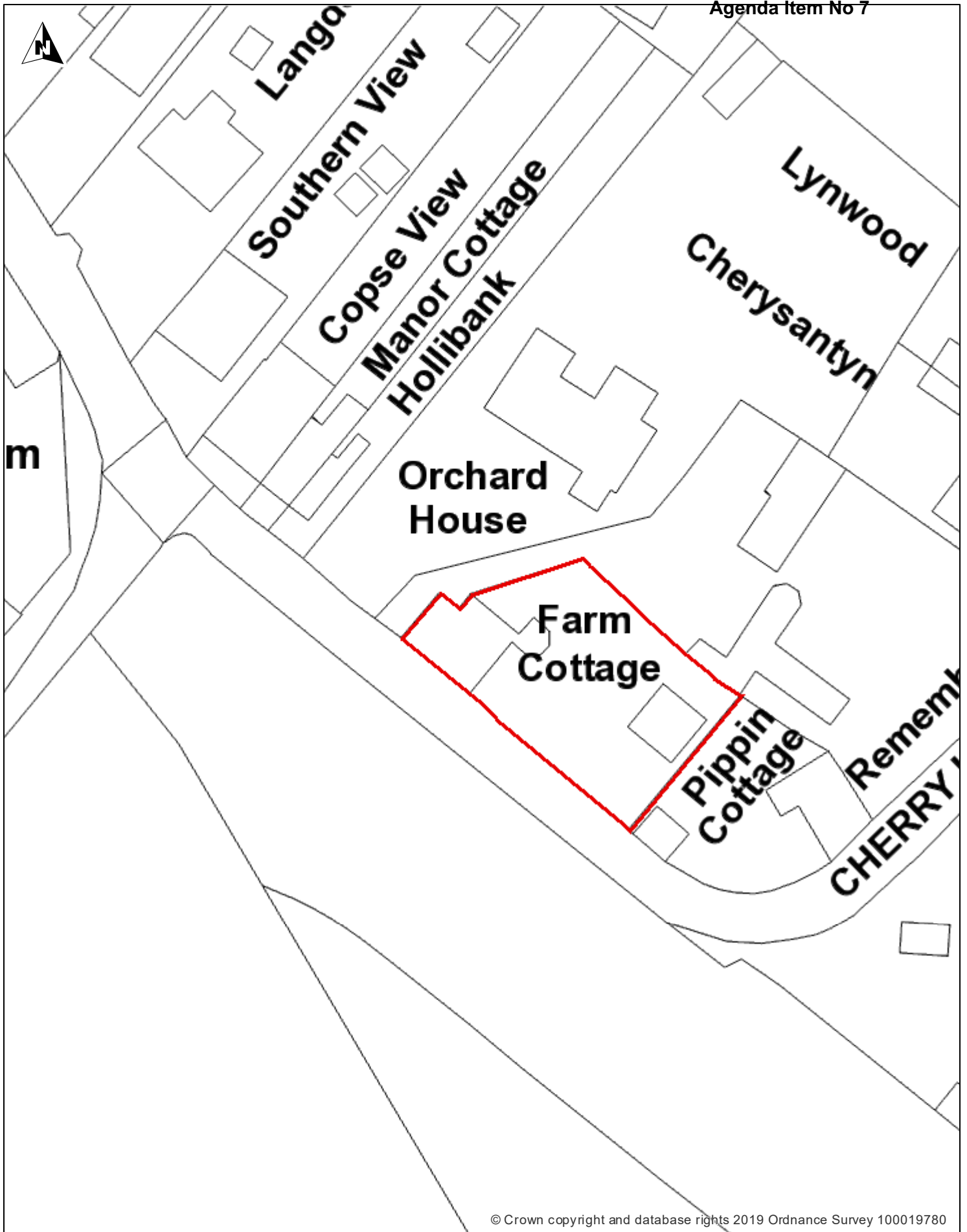
### **3. Conclusion**

- 3.1` The site is located within the Whitfield Urban Expansion allocation and on land which benefits from outline permission for the erection of housing and associated infrastructure. As such, the principle of the development has been established. The site has been identified as the primary housing allocation in the district, intended to deliver at least 5,750 dwellings. The site is also proposed to be reallocated for housing in the Draft Local Plan.
- 3.2 This reserved matters application seeks approval for the appearance, layout, landscaping and scale of the development within this phase. As set out in this report, there is some criticism of the detailed design of the dwellings; however, it is concluded that, overall, the development would provide a development of reasonable quality. The development: would not cause unacceptable harm to the character and appearance of the area; would not harm the residential amenities of neighbours; would provide a reasonable standard of accommodation to future occupiers; would not cause unacceptable harm to the highway network or highway safety; and is acceptable in all other material respects.
- 3.3 It is therefore recommended that permission be granted.

#### **g) Recommendation**

- I PERMISSION BE GRANTED subject to conditions to include: -
- (1) approved plans, (2) materials to accord with submitted details, (3) noise mitigation measures in accordance with submitted noise report, (4) removal of permitted development rights for the insertion of new openings to certain dwellings, (5) obscure and non-opening windows, (6) windows to be set in reveals, (7) bicycle storage, and (8) details for the maintenance of the mown paths.
- 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 recommendation and as resolved by Planning Committee.

Case Officer  
Luke Blaskett



20/00519  
Farm Cottage  
Cherry Lane, Great Mongeham  
CT14 0HG

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/20/00519 – Erection of a detached annexe for ancillary use for gym/hobby room (existing outbuilding to be demolished) - Farm Cottage, Cherry Lane, Great Mongeham**

Reason for Report: Seven contrary views

- b) **Summary of Recommendation**

Planning Permission be GRANTED

- c) **Planning Policy and Guidance**

Dover District Core Strategy

- 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.
- DM9 - Accommodation for dependent relatives will be permitted provided it is:
  - i. Designed and located so as to be able to function as ancillary accommodation to the principal (not main) dwelling and revert to single family accommodation as part of the main dwelling once the use has ceased;
  - ii. Of a size and design appropriate to the needs of the intended occupant; and
  - iii. Acceptable in terms of flood risk.
- DM11 - Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- 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 non-residential development, and for residential cycle provision, should be informed by Kent County Council Guidance SPG4, or any successor. Provision for residential development should be informed by the guidance in the Table for Residential Parking.

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 seeks to achieve sustainable development.
- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental. These three overarching objectives are interdependent and need to be pursued in a mutually supportive way.
- Paragraph 11 states that where development accords with an up-to-date development plan it should be approved without delay; or where there are no relevant policies or the most important policies for the determination of the application are out of date, then also granting permission unless: there is a clear reason for refusing the proposed development due to conflict with an area/asset of particular importance (as



identified in the framework); and/or where any adverse impacts of granting permission significantly and demonstrably outweigh the benefits, when taking the Framework as a whole, then planning permission should be refused.

- Paragraph 127 requires that planning policies should ensure that well-designed places are achieved, with the creation of high-quality buildings and places being fundamental to what planning and development process should achieve.
- Paragraph 130 requires that permission be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area.
- Paragraph 170 requires that the planning system contributes to and enhances the natural and local environment, by recognising the intrinsic character and beauty of the countryside, protecting valued landscapes, geological conservation interests and soils, recognising the value of ecosystems, minimising impacts on, and where possible enhancing, biodiversity, preventing pollution and remediating contamination.

#### Kent Design Guide

#### National Design Guide

#### d) **Relevant Planning History**

02/00459 - Erection of detached dwelling and alterations to vehicular access - Refused

02/01422 - Erection of detached dwelling and construction of vehicular access – Refused

04/00920 - Construction of uPVC conservatory and construction of garage, widening of parking area already existing, widen existing access - Granted

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

Great Mongeham Parish Council – objects - the proposed building is too big, going from one storey to two will be an over development of the site and will be out of keeping with the surrounding area. It will also overlook the neighbouring properties.

County Archaeologist – no comments received

East Kent Public Rights of Way – no comments received

A total of seven individuals have raised objections to the proposal summarised as follows:

- Overlooking and loss of privacy
- Precedent would be set for development
- Overshadowing to neighbouring properties
- Limited access as rural road
- Belief that the annexe will later become a separate dwelling
- Size of proposal isn't appropriate for desired use

In addition, four letters of support have been received, raising the following points:

- Appropriate for the property
- Desired use as a gym is good for wellbeing
- Replaces existing building
- Windows are appropriately located
- Another neighbour has already built in their garden
- The development retains off road parking spaces

## 1. **The Site and the Proposal**

- 1.1 The application site relates to a detached two storey cottage on the northeast of Cherry Lane in Great Mongeham. This property is finished in pink painted brick with brown uPVC windows and doors, with a thatched roof.
- 1.2 The site is located within the village confines of Great Mongeham. The principal elevation of the cottage faces away from Cherry Lane. The site contains a gravelled car parking area sufficient for at least 4 cars to the southeast of the cottage. To the rear of this is a single storey outbuilding (faced in black painted boarding). A shed lies to the southeast of this parking area on the boundary to Cherry Lane.
- 1.3 Farm Cottage is bounded by Orchard House to the north, Pippin Cottage to the southeast and Remembrance to the east. The area comprises a quiet, well established residential area comprising a mixture of single storey and two storey dwellings which are both detached, and semi-detached.
- 1.4 The application is for a detached annexe located to the southeast of the main dwellinghouse and on the site of the existing outbuilding. The annexe would measure 7.3 metres wide by 6.2 metres deep with a maximum height of 6.7 metres. The annexe would be for ancillary use as a gym/hobby room and be finished in black horizontal boarding with the roof finished in small plain tiles. The proposed design aims to compliment a neighbouring property and to match the shed which will be retained.
- 1.5 The proposal has been amended and reduced in size in order to address concerns raised by neighbours. In particular, its design has been modified considerably, moving away from a somewhat residential design, with an interplay of steep roof pitches and dormer windows, to a more modest, simplified form, more in keeping with the appearance of a residential outbuilding. The annexe now has a simple pitched roof with a single dormer, and has been reduced from 6.2 metres to 5.9 metres in height (to the ridge).

## 2. **Main Issues**

- 2.1 The main issues for consideration are considered to be:
- The principle of the development
  - Residential amenity
  - The character and appearance of the area

### **Assessment**

#### **The Principle of Development**

- 2.1 The site is located within the settlement confines and the creation of ancillary residential accommodation in this location would accord with Policies CP1 and DM1.

As such, the development is acceptable in principle, subject to impact on visual and residential amenity and other material considerations.

### Character and Appearance

- 2.2 The NPPF states that planning decisions should ensure that developments 'will function well and add to the overall quality of the area', be 'visually attractive as a result of good architecture, layout and appropriate and effective landscaping', be 'sympathetic to local character and history' and 'establish or maintain a strong sense of place' (paragraph 127). Furthermore, paragraph 170 states that 'Planning policies and decisions should contribute to and enhance the natural and local environment by... recognising the intrinsic character and beauty of the countryside'.
- 2.3 The proposed annexe would be visible from the public highway, as viewed from the entrance to the driveway/ parking area. The annexe replaces an existing outbuilding that has been in this location for a number of years.
- 2.4 The annexe appears to have been designed to be sensitive to its proposed location, with material finish to be the same as is currently there, timber boarding, with a slate roof and timber framed windows. The timber boarding is already present within Cherry Lane and as such would complement the character and appearance of the street scene and surrounding area.
- 2.5 The proposed annexe has been amended following officer advice, reducing the height and mass of the building and simplifying its form, to allow the main dwellinghouse to remain the dominant building on the application site.
- 2.6 The scale and appearance of the development is considered to be acceptable for its intended use in such a location and is considered to fit within its context.

### Residential Amenity

- 2.7 The nearest property to the proposed extension is Remembrance which is to the northeast of the application site. The roof of the annex facing Remembrance would contain a high level roof light to avoid overlooking. Amendments were sought to reduce the height and to reduce the number of dormer windows. Amendments were also sought to reduce the overall massing of the annexe.
- 2.8 As a consequence, it is not considered that there would be any undue harm to the living conditions of the occupants of 'Remembrance' caused by the annexe.
- 2.9 The other properties which share a boundary with the host dwelling are Orchard House to the north and Pippin Cottage to the southeast. Orchard House is set at over 25 metres away from the proposed annexe and separated by trees and garden land. As a consequence, it is not considered that the occupants would experience any change to their current level of amenity. Pippin Cottage is set closer to the boundary of the proposed annexe, although it will be noted that the proposed annexe is set on the footprint of the existing outbuilding. The additional height of the new building should not result in any undue overshadowing to the property as it is located to the northwest of Pippin Cottage, and any increase in overshadowing would be modest and would fall towards the garden land of the application site. Furthermore, Pippin Cottage is separated from the proposed annexe with dense, high planting along the boundary. It is not considered that Pippin Cottage would experience an overbearing impact, overshadowing or any loss of privacy from the annexe.

2.10 As a consequence, it is not considered that there would be any harm to the living conditions of the occupants of Orchard House and Phippen Cottage caused by this outbuilding.

### **3. Conclusion**

3.1 The proposed erection of a detached annexe for use as a gym and hobby room, due to its design and appearance, as agreed through the modifications sought to the proposal, would result in an outbuilding that would appear in keeping with the character and appearance of the street scene and surrounding area. Furthermore, for the reasons outlined above, the development would be unlikely to result in any unacceptable harmful impacts to the residential amenities of surrounding occupiers in respect of overshadowing, overbearing or loss of privacy. Consequently, the proposals would accord with the aims and objectives of the NPPF.

3.2 It is therefore recommended that planning permission be granted.

### **g) Recommendation**

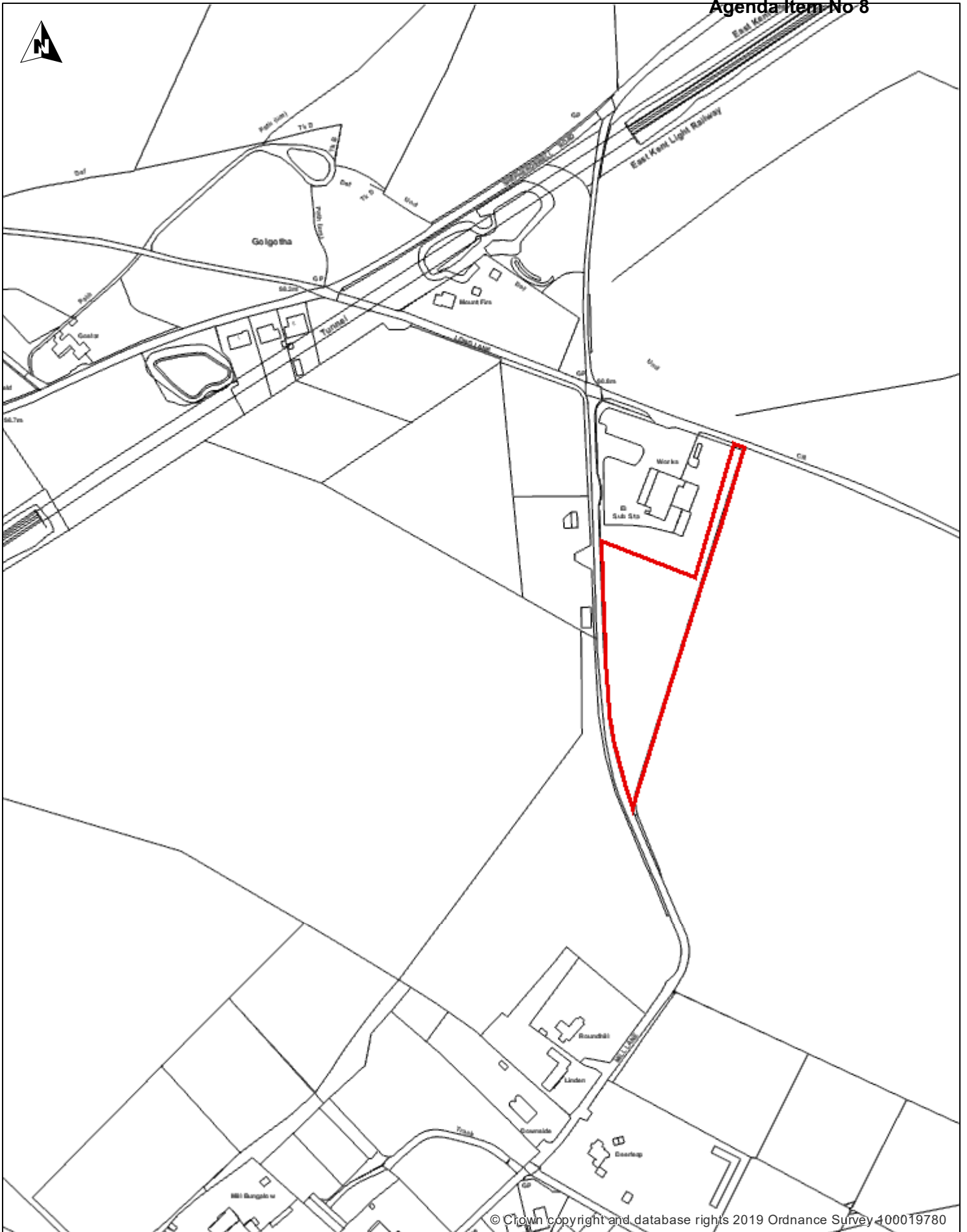
I Planning permission GRANTED subject to the imposition of the following conditions:

(1) 3-year time limit for commencement, (2) compliance with the approved plans. (3) Annexe to only be used for uses ancillary to main dwellinghouse (4) Confirmation that the cill of the rooflight would be no lower than 1.7m above the first floor level and consideration to the removal of PD rights to avoid any new window openings.

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

Case Officer

Amber Tonkin



21/00227

Norton Timber  
Long Lane, Shepherdswell  
CT15 7LU

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/21/00227 – Erection of a detached dwelling with associated parking and new vehicular access - Norton Timber, Long Lane, Shepherdswell**

Reason for report: Number of contrary views (15).

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policies and Guidance**

Core Strategy Policies

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.

DM4 - Beyond the confines or rural service centres, local centres and villages, permission will be given for the re-use or conversion of structurally sound, permanent buildings where it is for commercial uses and for private residential use in buildings that are adjacent to the confines.

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 non-residential development, and for residential cycle provision, should be informed by Kent County Council Guidance SPG4, or any successor. 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 and appearance of the countryside will not normally be permitted.

DM16 - Generally seeks to resist development which would harm the character of the landscape, unless it is in accordance with a Development Plan designation and incorporates mitigation measures, or can be sited to avoid or reduce the harm and/or incorporates design measures to mitigate the impacts to an acceptable level.

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 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental. These three overarching objectives are interdependent and need to be pursued in a mutually supportive way. Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

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

Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.

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

Chapter five of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years' worth of housing.

Chapter nine of the NPPF seeks to promote sustainable transport.

Chapter twelve seeks to achieve well-designed places, with the creation of high quality buildings and places being fundamental to what planning and development process should achieve.

Chapter fifteen requires that the planning system contributes to and enhances the natural and local environment, by recognising the intrinsic character and beauty of the countryside, protecting valued landscapes, geological conservation interests and soils, recognising the value of ecosystems, minimising impacts on, and where possible enhancing, biodiversity, preventing pollution and remediating contamination.

Paragraph 177 states 'The presumption in favour of 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.'

#### Draft Local Plan Reg 18

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.

#### National Design Guide

Kent Design Guide

d) **Relevant Planning History**

There is no relevant planning history for the site.

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

DDC Ecological Officer – The preliminary ecological appraisal recommended that a reptile survey should be carried out on this land. This has not been submitted to the council. Since the possible presence of protected species is a material consideration in the planning process. Please ask the applicant to follow their consultant's advice and commission the work to start within the appropriate seasonal window.

DDC Environmental Health – no objection subject to condition.

Shepherdswell Parish Council – recommend refusal.

Environment Agency – no comments.

Southern Water - Southern Water would not support the proposals for private treatment plant in the presence of public foul sewerage network in the close vicinity of the development site. The foul sewerage shall be disposed in accordance with Part H1 of Building Regulations hierarchy. It may be possible for the foul flows from the proposed development to be connected to a nearby public sewer, and the applicant shall investigate this option. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

**Third Party Representations**

15 letters of representations received in support and summarised below:

- appropriate use of land
- deter crime
- sympathetic to the countryside
- limited impact on road and local infrastructure
- nice to see individual properties build rather than rows of the same houses
- aesthetically pleasing
- add to the beauty and comfort

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

1.1 The application site lies within the countryside, to the north of Shepherdswell. The site adjoins an existing timber yard/workshop to the north. Having reviewed the historical aerial imagery, it is apparent that in 2003, the application site was part of the wider agricultural fields and the later imagery from 2006 shows the site as forming part of the Norton Timber Yard. The slope of the site gradually rises from north to south and is highly prominent in long and short range views. There is a mixture of arable and pasture land around the site, together with small areas of woodland. The site lies at a distance of approximately 600m from the nearest settlement boundary however, it lies over 1km from the nearest facilities and services in the village of Shepherdswell.

1.2 The proposal seeks full planning permission for the erection of a two storey 4 bedroomed detached dwelling. The intention to carry out self-build is noted. The



dwelling would have a pitched roof with flat roofed gables. The dwelling would be 5.5m in height, 10.5m in width and 17.5m in depth. The footprint of the proposed dwelling would be 183.75sqm and the floor area would measure approximately 227sqm (excluding the external deck area). The proposed dwelling would have a brick plinth and would be clad with timber boarding. The mansard gables would have an oak frame and would be predominantly glazed. It is understood that the fascia, soffit and fenestration would be made of timber. It is proposed to create a new access off Long Lane adjacent to the existing access which serves the business.

## 2 **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the area
- Highway/Travel Impact
- The impact on residential amenities
- Ecology
- Drainage and flooding

### **Assessment**

#### **Principle of Development**

2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in such plans, unless material considerations indicate otherwise.

2.3 It is considered that the policies which are most important for determining the application are DM1, DM11, DM15 and DM16.

2.4 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 596 dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result, of this should carry only limited 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. Whilst there is some tension, this policy broadly accords with the NPPF's aim to actively manage patterns of growth to support the promotion of sustainable transport. However, the blanket approach to restrict travel generating development outside of settlement confines is inconsistent with the NPPF. Nevertheless, the application site lies approximately 600m from the settlement confines and as such the degree of harm

arising from the infringement with Policy DM11 is considered to be moderate. It is therefore considered that, for the purposes of this application, DM11 should be afforded significant weight.

- 2.6 Policies DM15 and DM16 generally seek to resist development that would result in the loss of, or adversely affect the character or appearance, of the countryside or would cause harm to the character of the landscape. These policies are broadly consistent with the aims of the NPPF including the need to: recognise the intrinsic character and beauty of the countryside. The blanket approach of refusing development which results in the loss of the countryside within DM15 however is at odds with the NPPF. DM15 refers to the importance of “character and appearance” of the countryside, whereas the NPPF seeks to protect “character and beauty”. While policy DM15 is otherwise consistent with the NPPF, parts of it are inconsistent and not up-to-date. It is considered that DM15 should therefore be afforded less than full weight.
- 2.7 Notwithstanding the primacy of the development plan, paragraph 11 of the NPPF 2019 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. At the present time the Council is able to demonstrate a 5-year housing land supply (having 5.39 years supply). The council have not ‘failed’ the Housing Delivery Test for the purposes of Paragraph 11 of the NPPF (i.e. the delivery of housing has not been substantially below the housing requirement over the previous three years).
- 2.8 As a whole, it is considered that the main policies for determining the application are not up-to-date and as such the ‘tilted balance’ (paragraph 11, NPPF) must be engaged.
- 2.9 The NPPF paragraph 78 requires that “housing should be located where it will enhance or maintain the vitality of rural communities” and paragraph 110 prioritises pedestrian and cycle movements and facilitating access to high quality public transport. Therefore, the proposal would be contrary to paragraphs 78 and 110 of the NPPF.
- 2.10 Regard has also been had later in this report to whether there are any material considerations which indicate that permission should exceptionally be granted.
- 2.11 Prior to assessing the visual impacts arising from the proposed development, it is necessary to establish whether the application site could be classed as ‘previously developed land’.
- 2.12 The NPPF definition of previously developed land is in the annexed glossary. It reads as follows:

“Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

- 2.13 Regard has been to the legal principles that apply when considering the issue of curtilage, as summarised by Mr Justice Supperstone in *Burford v Secretary of State for Communities and Local Government* [2017] EWHC 1493 (Admin), below:  
Three factors had to be taken into account in determining whether a structure or object was within the curtilage of another building (*Attorney General ex rel Sutcliffe v Calderdale MBC* (1983) 46 P. & C.R. 399, [1982] 7 WLUK 340 applied):  
(a) the physical layout of the building and the other structures;  
(b) their ownership, past and present;  
(c) their use or function, past and present.

The site is currently being partly used for open storage purposes in conjunction with the existing business use, although much of it has a more natural appearance. Having reviewed the historical aerial imagery, it is apparent that in 2003, the application site was part of the wider agricultural fields and the later imagery from 2006 shows the site as forming part of the curtilage of Norton Timber Yard. Taking into account the determining factors as stated above, the past and present characteristics of the site (i.e., relatively undisturbed by development) and its current use, in your officers opinion, the majority of the site is not considered to be previously developed land (PDL).

- 2.14 A few representations have been received regarding supporting the existing business by granting a dwelling on site. However, no such argument has been presented within the Design & Access statement. Nevertheless, for the purposes of completeness, it is felt relevant to discuss the matter and establish whether the need for a rural worker's dwelling on this location carries weight in the decision making process.
- 2.15 The revised Framework at paragraph 79 allows for isolated homes in the countryside where there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. Whilst technically the site is not defined as isolated, it lies in an unsustainable location and is isolated from the day to day facilities and services.
- 2.16 There is a consistent approach which requires the following to be taken into consideration whilst assessing the case for a rural worker's dwelling.
- a) Whether there is an essential need for a dwelling to accommodate a rural worker
  - b) Whether, having regard to national planning policy that seeks to avoid isolated new homes in the countryside, there is an essential need for a rural worker to live permanently at or near their place of work.
  - c) Is it necessary for a worker to live at or near their place of work in order for that work/enterprise to function properly?
  - d) Is the work/enterprise in question likely to endure in the long term? (i.e. is there a significant risk that the enterprise might cease in the near future, leaving behind a new dwelling that would not otherwise have been approved?)

- 2.17 Guidance further advises to take into account whether a worker needs to be on or near the site at most times, including the night – i.e. outside of regular hours of work. It also requires the submission of evidence to demonstrate that other measures have been considered such as alarms in the event of power failure etc. Further to this, the applicant is required to sufficiently demonstrate the adverse effects that might arise if a worker were not present at most times and how serious these effects might be i.e. could their absence on the site materially affect the functioning of the enterprise or the viability of the business.

- 2.18 Overall no evidence has been provided with the application to establish that there is a 'need' for a rural worker to live at or near the site. No details of the applicant's business have been submitted to support the argument. Notwithstanding the lack of evidence, in the event that it was established that there is a need for a worker to live at or near the site, it is necessary to first consider whether there is existing accommodation in the area that might reasonably meet the need. Further to this, the guidance also requires the size of the dwelling to be proportionate for the intended purpose i.e. appropriate to the essential need and not be unnecessarily large. In summary, it is not considered that there is any justification in this case for granting permission on the basis that the proposed dwelling is required to meet the needs of the existing rural business.

#### Impact on the Character and Appearance of the Area

- 2.19 The site lies within the countryside, where policy DM15 applies. This policy directs that planning permission for development that adversely affects the character or appearance of the countryside should be refused, unless one of four criteria is met, and the development does not result in the loss of ecological habitats.
- 2.20 Regard must also be had for whether the development would harm the landscape character of the area, in accordance with policy DM16. Where harm is identified, "permission should be refused unless it is in accordance with the development plan and incorporates any necessary avoidance or mitigation measures or can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level".
- 2.21 The area is rural in character. Built development is very limited comprising small clusters of buildings and cottages partially screened by trees and hedgerows. The application site lies in an elevated position with no development screening the site. As such, by virtue of its exposed location, it is highly prominent in short and long range views from the wider landscape. The site is currently used for open storage in conjunction with the existing business, although there is no history of planning permission being granted for such a change of use of the land. Notwithstanding this, it should be noted that the site remains essentially undisturbed by development. By virtue of the topography and the location of the site, views from Long Lane and Mill Lane would be readily gained of the new dwelling together with a range of domestic paraphernalia such as hardsurfacing, fences, walls, gates etc, all of which would jar with the relatively unspoilt rural setting, would have an urbanising effect on the immediate area to the detriment of the rural character and appearance of this part of the countryside.
- 2.22 Regard must be had to whether in light of this harm, the proposed development could be acceptable by meeting any of the four criteria listed under Policy DM15 *which includes (i) it is in accordance with allocations made in the Development Plan Documents; or (ii) justified by the needs of agriculture; or (iii) justified by a need to sustain the rural economy or a rural community; (iv) it cannot be accommodated elsewhere and it does not result in the loss of ecological habitats*). In respect of these matters, the proposed dwelling would be located in a rural location, beyond the nearest settlement. It is not justified by the needs of agriculture. Whilst it is acknowledged that the proposal would provide a short-term economic benefit, by providing employment during the construction phase, it is not considered that this would apply to a sufficient degree to set aside the harm identified. Furthermore, no overriding justification has been provided that demonstrates why a dwelling needs to be in this location and why it cannot be accommodated elsewhere.
- 2.23 Regard should also be had to policy DM16 of the Core Strategy which generally seeks to resist development which would harm the character of the landscape, unless it is in

accordance with a Development Plan designation and incorporates mitigation measures, or can be sited to avoid or reduce the harm and/or incorporates design measures to mitigate the impacts to an acceptable level.

- 2.24 The application site falls within the LCA E1: Shepherdswell Aylesham Parklands as identified within the new draft evidence base Landscape Character Assessment 2020. The findings from the landscape assessment are relevant to the subject matter of the planning application under consideration.
- 2.25 The key characteristics of the LCA include the following:
- Undulating topography of distinct gentle ridges and valleys;
  - Numerous blocks of deciduous woodland, many of ancient origin, are locally designated and break up large arable fields. These include parkland belts, clumps, and copses;
  - Small estate villages linked to the historic parklands with strong vernacular of redbrick, flint and Kent peg tiles, linked by narrow rural roads;
  - Historic links to Kent coal mining at Aylesham, Eythorne and Shepherdswell; Good, connected PRoW network enabling access into the landscape, including the North Downs Way and Miners Way Trail Long Distance Footpaths.
  - A rural and tranquil landscape, although cut by the major transport corridors of the A256, A2 and Dover Priory to London Victoria railway line.
- 2.26 The landscape strategy guidance within the LCA 2020 seeks to conserve and enhance the rural character and simple pattern of the rolling arable landscape interspersed with blocks of woodland and parkland. Given the characteristics of the wider area, the guidance does not indicate any scope for new housing in the area.
- 2.27 Given the exposed location of the site, it is necessary to carry out an assessment of the landscape character of the site and the surrounding area, viewpoints from where the site is or may be visible and the impacts of development. A change in the nature and composition of the visual landscape resulting from changes to the character and appearance of the site could potentially affect the amenity value associated with existing views from adjoining land and receptors.
- 2.28 Some broad viewpoint locations have been chosen for the assessment. The following viewpoints have been identified:
1. Views achievable from Mill Lane approximately 225m from the site
  2. Views achievable from Long Lane approximately 190m from the site.
  3. Views achievable from Mill Lane adjacent the site
  4. Views achievable from the site entrance.
- 2.29 In order to assess the impacts of the development on the character of the landscape, a standard methodology has been used which considers the sensitivity to change, the magnitude of change and the significance of impacts, having regard for potential mitigation [Guidelines for Landscape and Visual Impact Assessment (GLVIA3)].
1. Views achievable from Mill Lane approximately 225m from the site  
When traversing towards north along Mill Lane (225m from the site), the site is prominent in views however, by virtue of the slope of the land, the rooftops of the existing workshop and its extensions are visible. Whilst the rooftops are considered to be the only detractors in the view, it is not considered that they have more than a minor negative impact in this viewpoint. The proposed development, by virtue of its location and siting would appear highly prominent in views and would detract from the relatively unspoilt landscape setting. By virtue of the topography of the land, it is not considered that the

landscape mitigation could help resolve the visual impact arising from the development. The sensitivity to change and the magnitude of change is assessed to be moderate. It is considered that in this view, the development would cause a moderate adverse effect.

2. Views achievable from Long Lane approximately 190m from the site

At approximately 190m diagonally from the site, by virtue of lack of any mature vegetation along the site boundary and around the site, clear views of the existing workshop are achievable. The open and undulating nature of the wider landscape is also evident in these views. Whilst the existing building is visible and is the only detractor in this view, it is limited to the area fronting Long Lane and as such it is considered to constitute a minor negative. However, the proposed dwelling would be sited within the raised part of the site and would be prominent in views and would detract from undisturbed landscape setting. The scale of the change that will be experienced from this view is assessed to be moderate which takes into account the distance of the receptor from the site. The sensitivity to change and the magnitude of change are assessed to be moderate. The proposed development is considered to cause a moderate adverse effect.

3. Views achievable from Mill Lane adjacent the site (traversing in the southerly direction)

By virtue of lack of vegetation and topography of the site, clear views of the site are achievable. The only detractors in this view is the open storage (timber and other materials) which is spread across the site. Nevertheless, the existing detractor (open storage on site) would constitute a minor negative. The proposed dwelling would be highly prominent in views and would detract from the relatively unspoilt rural setting. The sensitivity to change and the magnitude of change is assessed to be high. It is considered that, in this view, the development would cause a severe adverse effect.

4. Views achievable from the site entrance

The views of the site achievable from the site entrance comprise extensive areas of hardstanding, a standalone single storey building near the entrance, storage containers and the main workshop building (style of the building - typical agricultural barn) and open storage on site fill up the rest of the view. The detractors in this view are considered to be the hardsurfacing, the buildings and the open storage. The proposed development would introduce a new vehicular access. Views into the site would be possible, including areas of car parking and views of the dwelling. It is considered that the proposal would introduce a suburban, engineered character to this narrow lane, significantly departing from the rural character which prevails. The sensitivity to change and the magnitude of change is assessed to be moderate. It is considered that, in this view, the development would cause a moderate adverse effect.

2.30 In terms of mitigation, the application proposes sporadic planting of trees and creation of wildflower meadow (indicative only). By virtue of the topography of the land and siting of the proposed dwelling in an exposed location, the proposed landscaping would do very little to mitigate the significant harm identified.

2.31 In conclusion, by virtue of the site's location and topography of the wider area, the application site lies in a prominent location such that the proposed development, due to its siting and scale, would be highly visible in wider views from the south and east. It would introduce domestication in this part of the countryside to the detriment of and would detract from the character and appearance of the countryside and wider landscape. It would fail to respect or respond to its setting and fail to integrate into the natural and built environment or reinforce local distinctiveness. Therefore, the proposed development would be contrary to policies DM15 and DM16 of the Core Strategy. Finally, it would be contrary to paragraph 170 of the NPPF which requires the planning

policies and decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

#### Highways/Travel Impacts

- 2.32 Regard has also been had to Policy DM11 which states that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. The proposed dwelling would give rise to additional travel in a location beyond the settlement confines. The proposed development would therefore be contrary to policy DM11 of the Core Strategy.
- 2.33 The routes to Shepherdswell lack lighting or footpaths, significantly reducing the convenience of such routes for walkers and cyclists. The nearest bus stop is located around 700m away, but provides an infrequent bus service. The train station is located around 1.8km away and provides mainline services. Given the distance and the lack of attractiveness of the route for walking or cycling, it is considered that it is highly unlikely occupants of the development would travel to Shepherdswell by means other than a car. In addition, the main facilities and services in the Local Centre (defined by CP1) are located a significant distance further away. A loose cluster of facilities and services is located around 1.1km to the south around the historic core of the settlement. This cluster includes a primary school, a pub and a church. The village also provides a medical centre, located around 750m away. A second loose cluster of facilities and services is located at a distance of around 1.8km, including a small supermarket, a post office, the train station and Shepherdswell Village Hall.
- 2.34 As such, the site is located away from facilities and services leading to future occupants being dependent upon the private car for access to day-to-day facilities and services, thereby working against the sustainable travel and reduction of the pollution objectives of the NPPF. To conclude, it is considered that the proposed development lies in an unsustainable location and would not enhance or maintain the vitality of rural communities and would fail to prioritise pedestrian and cycle movements or facilitate access to high quality public transport, contrary to paragraph 110 of the NPPF. For the same reasons, the development would be contrary to Policy DM11 of the Core Strategy.
- 2.35 The proposed development would result in the creation of a new vehicular access off Long Lane adjacent to the existing access. No details of the proposed access have been submitted with the application i.e. no visibility splays have been shown. Nevertheless, having regard for the location of the access (i.e unobstructed views on either side), it is considered that required visibility splays could be achieved for the proposed access. The Core Strategy suggests that a minimum of two independently accessible car parking spaces be provided for residents of the dwelling, together with an additional 0.2 spaces per dwelling for visitors, although parking should be a design-led process. The proposal makes adequate parking provision for off-street parking and therefore, the proposed development would comply with policy DM13 of the Core Strategy.
- 2.36 The development does not include any defined provision of cycle parking spaces. In accordance with the recommendations of the Kent Design Guide and the NPPF, and to encourage and facilitate the use of this sustainable form of transport, it is considered that details for the provision of cycle parking (at one space per bedroom) could be secured by condition.

#### Impact on Residential Amenities

- 2.37 The proposed development would lie at a significant distance of approximately 200 - 250m from the nearest residential properties to the north and south. Having regard for

the substantial separation distances, it is not considered that the proposed dwelling would cause harm to the residential amenity of the neighbouring occupiers.

- 2.38 The proposed dwelling would be approximately 5.5m in height. For the avoidance of doubt, it is necessary to clarify that the height includes the 600mm plinth, internal ceiling and the main roof. Therefore, it is not felt that two storeys could be satisfactorily accommodated within a building measuring 5.5m in height. Overall it would result in the creation of a substandard quality of accommodation. The CGI image submitted with the application has also been reviewed. The proportions within the CGI image do not appear to correspond with the elevations presented in the form of 2D drawings. Notwithstanding this, the measured elevational drawings have been relied upon in reaching the conclusion. Had the application been acceptable in all other respects, your officers would have sought clarification/amended plans to address this matter.
- 2.39 The proposal would provide a private garden and areas which could be used for refuse storage and general amenity space. Whilst there is sufficient space for storage of refuse on site, the bins would have to be pulled to the entrance of the access on the collection days over significant distances i.e. approximately 120m – 130m from the access, because a refuse vehicle could not access the site.
- 2.40 In conclusion, in light of the submitted information, it is considered that the proposal would result in the creation of substandard accommodation by virtue of constrained internal heights (although no sectional drawings have been submitted). Further to this, the future occupants would have to pull the bins over significant distances thereby causing significant inconvenience to the future occupants and would fail to accord with paragraph 127 of the NPPF which requires the development to have high standards of amenity for the future occupants.

#### Ecology

- 2.41 The EU Habitats Directive 1992, requires that the precautionary principle is applied to all new projects, to ensure that they produce no adverse impacts on European Sites. Regard has been had to Natural England's Standing Advice which suggests that in rural areas, the likely presence of bats, breeding birds, badgers, reptiles and great crested newts could be expected. The application has been accompanied by a Preliminary ecological survey (Phase 1 Habitat Survey). The Council's ecologist has advised that a reptile survey should be carried out in line with the recommendation within the submitted Phase 1 Habitat Survey, with a view to ascertain the likely impacts on the protected species. Therefore, in the absence of the evidence to the contrary to demonstrate that the proposed development would not cause significant harm to the wildlife habitats together with appropriate mitigation measures secured via a planning obligation and planning conditions, the proposed scheme is considered unacceptable. In conclusion, the proposed development would be contrary to national policy, most particularly paragraph 175a of the NPPF Framework.

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

- 2.42 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.
- 2.43 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.

- 2.44 Following consultation with Natural England, the identified pathway for such a likely 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.
- 2.45 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.
- 2.46 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.

#### Drainage and Flooding

- 2.47 The site lies within Flood Risk Zone 1, where there is the lowest risk of flooding. However, given the size of the site, it is appropriate to consider whether the development would be likely to lead to localised on or off-site flooding. The NPPF, paragraph 163, states that local planning authorities should ensure that flooding is not increased elsewhere and priority should be given to the use of sustainable drainage systems. In furtherance to this, the Planning Practice Guidance states that sustainable drainage systems should be designed to control surface water run-off close to where it falls and replicate natural drainage as closely as possible.
- 2.48 The application proposes the use of a private treatment plant. Southern Water have advised that they would not support the proposals for a private treatment plant in the presence of a public foul sewerage network in close proximity to the site. Further to this, the foul drainage assessment has not been completed and submitted with the application. As it stands, insufficient information has been submitted in respect of foul water drainage. Notwithstanding this, matters relating to foul water and surface water drainage could be dealt with via suitably worded pre-commencement conditions.

#### Other Material Considerations

- 2.49 Archaeology: The site lies within an area with archaeological potential. No formal comments from KCC Archaeology have been received in this instance. Notwithstanding, given the archaeological potential of the area, it is possible that the proposed development may affect remains of archaeological interest. Consequently, it is recommended that in the event of grant of planning permission, a condition be attached for a programme of archaeological works.
- 2.50 The NPPF, at paragraph 8, states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. Therefore, the assessment of sustainability can be separated into three dimensions: social, economic and environmental. The proposed development would provide a short term and very modest economic benefit, by providing employment during the construction phase. With regards to the social and environmental roles, it is not considered that the proposal would result

in the creation of a high-quality environment. Given the fact that the Council can demonstrate a 5-year housing land supply, the benefit associated with the provision of one dwelling would be negligible.

- 2.51 In summary, the proposal would provide only limited economic benefits; however, this is considered to be more than outweighed by the significant and demonstrable harm caused to the wider environmental objectives relating to the detrimental impact to the countryside and the unsustainable travel patterns that the development would necessitate. It is not considered that the development represents 'sustainable development' and is, therefore, not supported by the NPPF and as such the development should be refused.

### **3. Conclusion**

- 3.1 The application site lies well beyond settlement confines, where planning policy strictly controls new development. The proposal doesn't address any of the exceptions allowed for by policy and as such is considered to be unacceptable in principle, contrary to Policy DM1 of the Core Strategy and the NPPF which seeks to restrict new development in the open countryside. The proposal would constitute an incongruous and visually intrusive feature in this important rural environment to the detriment of the character and appearance of this part of countryside, contrary to policies DM15, DM16 and paragraph 170 of the NPPF. The very limited benefits associated with the proposal are considered to be more than outweighed by the significant and demonstrable harm caused to the wider environment. In addition to this, by virtue of its location, the proposal would constitute an unsustainable form of development and would therefore be contrary to the development plan policies and the NPPF. The application has also failed to demonstrate that the proposed development would not cause significant harm to the wildlife habitats.

### **g) Recommendation**

I Planning permission be REFUSED for the following reasons:

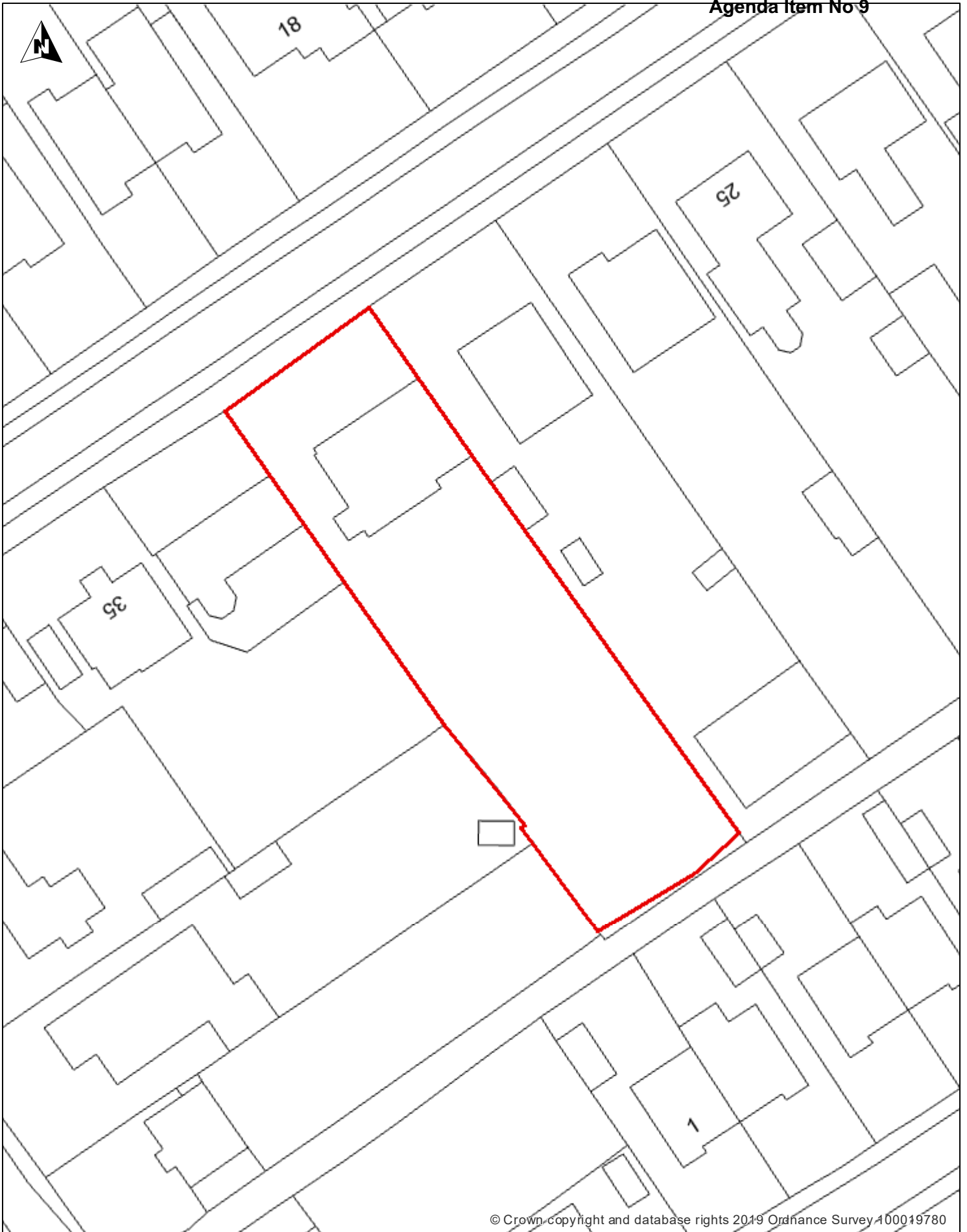
1. The proposed development would result in a dwellinghouse outside of any defined urban or village confines and in open countryside, the need for which has not been demonstrated sufficiently to override normal restraint policies. The proposal would constitute unsustainable residential development in this rural location, resulting in additional vehicle movements and the need to travel by private car, and would result in an overtly domestic form of development in an exposed rural location which would significantly and demonstrably harm the rural character and appearance of the countryside at this point contrary to policies DM1, DM11, DM15 and DM16 of the Core Strategy (2010) and paragraphs 78, 110, 127, 130 and 170 of the National Planning Policy (2019).
2. The site, by virtue of its location and its relationship with the surrounding trees and the rough grassland and scrub, is reasonably likely to provide a habitat for reptiles. The application has failed to demonstrate that the protected species would not be adversely affected, or that appropriate mitigation could be secured, contrary to The Wildlife and Countryside Act 1981(as amended) and paragraph 175a of the NPPF.
3. The proposed dwelling, by virtue of its constrained floor to ceiling heights would result in the creation of an unacceptable standard of accommodation, detrimental to the living conditions of future occupiers. Further to this, the future occupants of the dwelling would be required to pull the bins to the entrance of the access on collection day, over a significant distance (i.e., approximately 120m – 130m) thereby causing significant inconvenience. As a result, it would fail to secure a high standard of amenity for the

future occupants and would be contrary to paragraph 127 of the NPPF (2019) which seeks a high standard of amenity for all occupants and requires good design to contribute positively to make places better for people.

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

Case Officer

Benazir Kachchhi



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20/01542  
31 Bewsbury Crescent  
Whitfield  
CT16 3EU

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/20/01542 – Erection of a detached dwelling with creation of a vehicular access and associated parking. Erection of a first-floor extension, garage and roof extension to existing dwelling incorporating 4 dormer windows and alterations to doors and windows (existing garage, side elevation, sheds and greenhouse to be demolished) - 31 Bewsbury Crescent, Whitfield**

Reason for report – Number of contrary views (19 + Whitfield Parish Council)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010)

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM11 – Location of Development and Managing Travel Demand

DM13 – Parking Provision

National Planning Policy Framework (NPPF) (2019)

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 8 identifies the three overarching objectives of the planning system in relation to the aim of achieving sustainable development; an economic, social and environmental objective.

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 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 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.

#### National Planning Practice Guidance

#### National Design Guide (2021)

#### Kent Design Guide (2005)

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

#### SPG4 Kent Vehicle Parking Standards

#### Draft 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.

#### d) **Relevant Planning History**

CH/6/58/0066	Erection of a bungalow – Granted
DO/83/0032	Garage – Granted
DOV/93/00306	Erection of a garage – Granted
DOV/20/00538	Erection of a detached dwelling to rear and modifications/extensions to existing dwelling comprising erection of a roof extension incorporating 4no. dormer windows, first-floor extension, garage to side elevation, alterations to doors and windows, creation of an additional vehicular access and associated parking (existing garage, side elevation, sheds and greenhouse to be demolished) – Refused

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

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

Whitfield Parish Council – Whitfield Parish Council continue to lodge our objection to this application which is a 'back garden' development, to which we are strongly opposed. Given the recent development of houses at Fitzwarin Place, which has had a big impact on this area, this application would be an additional over intensification and reduce the quality of life to the existing community, as well as the local environment.

KCC Highways and Transportation – this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the

current consultation protocol arrangements (an informative is suggested and would be included on the decision notice should permission be granted).

Southern Water – Requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. Advises that it is possible a sewer now deemed to be public could be crossing the development site and should any sewer be found during construction works, and investigation of the sewer will be required to ascertain its ownership before any further works commence on site (response to be included as an informative should permission be granted).

#### Public Representations:

19 members of the public have objected to the proposals (as of 18<sup>th</sup> May 2021) and the material considerations are summarised below. Matters such as impact on an individuals' property value are non-material considerations and are not included below.

- Character – remodelling of existing chalet bungalow becomes more out of character than the original application, roof is overbearing. Out of keeping. Out of scale. Detrimental effect on semi-rural nature of the neighbourhood
- Overbearing
- Noise & disturbance – garage for unit 1 (original property) now gives additional vehicle noise to flank wall of 33. Noise from vehicles accessing the new build. Noise during construction.
- Need for housing – addition of 140+ houses at the end of Bewsbury Crescent (Fitzwarin place) and the continued development plans for Whitfield, there is no need for the Council to support or encourage further rear garden developments in the Crescent. Same kind of home is readily available on the new Fitzwarin Place development. Site has not been identified in the Local Plan
- Loss of local open space
- Loss of wildlife habitat – green space and wildlife habitat is being squeezed by residential development, with the loss of the green field off Singledge Lane removing such habitat further. Need to protect the limited green space (including gardens) that we have. Also wildlife concerns in respect of loss of boundary hedge (used as access to neighbouring garden by hedgehogs)
- Privacy/overlooking – proposal would overlook neighbouring properties (including bedroom windows) and Castle Drive and take away privacy
- Overshadowing/loss of daylight
- Concerns due to proximity to neighbouring properties (including Castle Drive) and bridleway
- This second application does little or nothing to address the reasons given by DDC for the refusal of the original application. Cannot see that this current application mitigates the problems identified
- Driveway – access driveway to the proposed new dwelling (unit 2) still has the same issues for 29 & 31 and would harm the living conditions of both
- Object for same reasons as previous application. Object to the building of any houses in the rear gardens of houses in Bewsbury lane where they back onto Castle Drive
- Precedent – concerns there would be other similar applications which could result in another row of houses, out of keeping with the character of the village. Could result in refused applications being raised again
- Concerns regarding access for emergency vehicles e.g. fire engines, due to small access roads and houses behind houses which could put other houses at risk if a fire could not be engaged efficiently
- Boundary treatments - concerns regarding safety/ security. Neighbour requested existing hedge was retained however this has been disregarded with the

suggestion that it be removed and a 1.8m fence be erected with saplings on the side of 31. Existing wire fence supports an electric cable taking power from neighbouring garage to shed. Request that if planning application goes ahead, the fence at the front (adjacent to neighbouring property) is put up before any work is started. Concerns a solid fence would prevent hedgehogs crossing through site to neighbouring gardens

- Parking/traffic – will cause unnecessary pressure on an already busy Singledge Lane, which seems now a main road instead of the name lane. Amount of additional traffic created by Singledge Lane development has already given local people many problems creating a difficult and dangerous road in what was a quiet country farm road originally. The junction is not fit for purpose. Any additional development would impact local traffic problems. Danger with people parking on pavements and the sheer amount of traffic. Concerns there isn't sufficient space for another dropped kerb. Concerns that bridal way could become a tarmac or concrete drive to reduce traffic and parking problems in Bewsbury Crescent if this and future similar applications are approved
- Pollution – another chimney/flue adds to the pollution. Additional pollution from new dwelling
- Flooding – with the gradient of Bewsbury Crescent a new development might lead to flooding
- Concerns regarding possible subsidence as the properties are built on clay
- Whitfield Parish Council Annual Report 2013/14 stated “We are also concerned about ‘back garden’ developments, which increases housing density and puts pressure on local services” – their views should be taken into account
- References made to other refused applications; 14/00388, 14/00726, 15/01065 and 16/00909

## **1. The Site and the Proposal**

- 1.1 The application site relates to a detached chalet bungalow located on the southeast side of Bewsbury Crescent. The bungalow is finished in red brick with white uPVC windows and a barn-hipped tiled roof. There is a flat roofed dormer window to the front roof slope and to the northeast side of the dwelling is a garage with a pitched roof. The site is flat and to the front (northwest) of the dwelling is a lawned garden and a concrete driveway to the front of the garage provides 2 parking spaces. The site is bounded by No. 29 Bewsbury Crescent to the northeast, No. 33 Bewsbury Crescent to the west and the gardens of No. 35 Bewsbury Crescent and Nos. 74 and 72 Singledge Lane to the southwest. Public bridleway ER74 runs adjacent to the south eastern site boundary and to the south of this are Nos. 1, 3 & 5 Castle Drive, which are chalet bungalows with dormer windows on the rear roof slopes facing towards the site.
- 1.2 Bewsbury Crescent contains a mixture of bungalows, chalet bungalows and two storey dwellings, with the vast majority of properties being detached. The dwellings are generally finished in brick and/or render and there are a range of roof types and orientations. All dwellings are set back from the public highway behind either driveways or front gardens and there is a strong building line. However, a number of dwellings have been constructed in the rear gardens of properties, particularly in the eastern corner, and along the north eastern side of Bewsbury Crescent. Permission has also been sought for similar back garden development at several properties along this southern section of Bewsbury Crescent (bounded by public bridleway ER74 to the southeast), however these have been refused and some decisions have been dismissed at appeal. This, together with the planning history of the site, is discussed at paragraph 2.12 of



this

report.

- 1.3 This application seeks permission for the erection of a detached dwelling with the creation of a vehicular access and associated parking. A first floor extension, roof extension (incorporating 4no. dormer windows and alterations to windows and doors) to the existing dwelling and garage are also proposed. The existing garage, side elevation, sheds and greenhouse would be demolished.
- 1.4 The proposed bungalow would be sited approximately 24m to the rear of the existing dwelling (and approximately 47m from the highway edge). It would contain three bedrooms (one with an en-suite bathroom), family bathroom and an open-plan kitchen/living/dining room to the rear and would have an attached garage to the northeast side. The dwelling would measure approximately 11.6m in width and 8.5m in depth, with an eaves height of 2.9m, and ridge of 5m. There would be a front projection measuring approximately 6.6m in width and 2.8m in depth with the same eaves and ridge heights. There would also be a rear projection measuring approximately 5.2m in width and 1.7m in depth, with eaves and ridge heights of 2.8m and 4.6m respectively. There would be a private garden to the rear, side and front and there would be a turning and parking area to the front of the dwelling. The proposed garage to the northeast side would measure approximately 7.2m in depth and 3.5m in width and would have a flat roof with a height of approximately 2.7m from ground level.
- 1.5 The proposals also include extensions and alterations to the existing chalet bungalow, as well as the erection of a garage and new vehicular access with associated parking to the front of No. 31 Bewsbury Crescent. The proposed garage would be sited directly to the southwest of the dwelling, would be set back approximately 1.3m from the main front elevation and would be finished in multistock red brick with a plain clay tiled roof. It would measure approximately 3.5m in width, 6.6m in depth, would have an eaves height of 2.3m and ridge height of 5.3m. At first floor level of the dwelling, there would be a roof extension, with two flat-roofed dormers installed on the front roof slope and one on the rear roof slope. These would have a roof height of approximately 5.1m from ground level. The main roof of the dwelling would be increased in height by approximately 1.5m (from approximately 6m to 7.5m) and would change from having barn hipped ends on either side to having a pitched roof, finished in plain clay tiles. To the rear of the dwelling would be a first floor extension with a pitched roof. This extension would be finished in white feather edged boarding and would have eaves heights of approximately 4.2m and 5.2m and would have the same ridge height as the main roof. The extension, together with internal alterations, would result in the creation of one additional bedroom within the property (with four bedrooms all being located at first floor level).
- 1.6 The existing rear garden would be sub-divided to form the garden and parking area of the new dwelling, which would be separated by a 1.8m fence. The existing hedge along the northeastern boundary (with No. 29 Bewsbury Crescent) would be replaced with 1.8m close boarded fence with mature green beech hedge planted alongside.

## **2. Main Issues**

- 2.1 The main issues for consideration are:
  - The principle of the development

- Planning history of the site
- The impact on the character and appearance of the area
- The impact on residential amenity

## **Assessment**

### **Principle of Development**

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan, unless material considerations indicate otherwise.
- 2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located within the defined settlement confines and therefore accords with Policy DM1.
- 2.4 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. Again, as the site is located within the settlement confines, the development accord with Policy DM11. The occupants of the development would be able to access most day to day facilities and services within Whitfield and would be able to reach these facilities by more sustainable forms of transport, including walking and cycling. The site is located relatively close to public transport links.
- 2.5 For the above reasons, it is considered that the development accords with Policies DM1 and DM11. It is therefore concluded that the development accords with the development plan.
- 2.6 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 7. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (as assessed by the Housing Delivery Test).
- 2.7 Having regard for the most recent Housing Topic Paper, dated 19<sup>th</sup> January 2021, the Council are currently able to demonstrate a five-year supply. The council have delivered 80% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.8 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating

the need for housing, the council must now deliver 596 dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result, should carry only limited weight.

- 2.9 Policy DM11 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. It is considered that the blanket restriction imposed under (1) of DM11 however is contrary to the NPPF, albeit the remainder of the policy broadly accords with the NPPF. Insofar as this application is concerned, it is considered that DM11 is not out-of-date and should continue to attract significant weight.
- 2.10 The Council is in the Regulation 18 or 'consultation' phase of the draft Dover District Local Plan. This is the start of a process for developing a new local plan for the district, replacing in due course the Core Strategy and Land Allocations Local Plan. At this stage the draft is a material planning consideration for the determination of planning applications, although importantly it has little weight at this stage. As the plan progresses, it will be possible to afford greater weight to policies or otherwise, commensurate with the degree of support/objection raised in relation to them during the consultation process. A final version of the Plan will be submitted to the Planning Inspectorate for examination to determine if the Plan can progress to adoption and, if so, the degree to which final modifications will/will not be required. At the time of preparing this report therefore, policies within in the draft plan are material to the determination of the application, albeit the policies in the draft Plan have little weight at this stage and do not materially affect the assessment and recommendation.
- 2.11 Consequently, it is considered that the development plan policy most important to the determination of the application (Policy DM1) is out of date and as such, the tilted balance approach of Paragraph 11 of the NPPF is engaged.

#### Planning History of the Site

- 2.12 The most relevant planning history to the site is application DOV/20/00538, for the erection of a detached dwelling to rear and modifications/extensions to existing dwelling comprising erection of a roof extension incorporating 4no. dormer windows, first-floor extension, garage to side elevation, alterations to doors and windows, creation of an additional vehicular access and associated parking (existing garage, side elevation, sheds and greenhouse to be demolished).
- 2.13 The development was refused under delegated powers, with the reasons for refusal being:
1. The development, by reason of the siting of the proposed dwelling, would be out of keeping with and would cause harm to the existing prevailing pattern of development. This would fail to accord with the social role of sustainable development by reducing the quality of the built environment, contrary to Paragraphs 8, 11, 127 of the National Planning Policy Framework (2019) and Policies C1 and I3 of the National Design Guide (2019).
  2. The formation of the access/driveway to the proposed dwelling would by reason of its use, the comings and goings of pedestrians and vehicles and

associated levels of activity along it by the occupiers of and visitors to the proposed dwelling, harm the living conditions of the occupiers of No.29 and No.31 Bewsbury Crescent, contrary to Paragraph 127 of the National Planning Policy Framework (2019).

- 2.14 The design and appearance of the refused dwelling and alterations to the existing dwelling are the same to those proposed under this current application. However, the changes to the scheme, assessed at paragraph 2.25 of this report include: A change to the driveway surfaces to permeable paviour (instead of permeable paver and gravel); and change to the boundary treatments, with the eastern boundary being comprised of 1.8m close board fencing, 1.5m-1.8m mature green beech hedge and field maple trees planted as part of the hedge (as opposed to unspecified hedges and closeboarded fencing). The impact of this amended design is discussed further at paragraph 2.25 in respect of residential amenity impact.
- 2.15 Whilst each application should be assessed on its own merits, other planning permissions in the surrounding area are capable of being material considerations in the assessment of this application. As discussed at paragraph 1.2 of this report, permission for backland development has generally been permitted in the north eastern section and eastern corner of Bewsbury Crescent. Permissions include: outline application for a detached dwelling to the rear of No. 7 Bewsbury Crescent (DOV/20/01394) and erection of a dwelling to the rear of No. 11 Bewsbury Crescent (DOV/20/01063) both applications determined after the refusal of DOV/20/00538 (the previous application at 31 Bewsbury Crescent). Prior to this, permission had also been granted for a number of backland developments including a bungalow to the rear of No. 15 Bewsbury Crescent (references DOV/14/00912 and DOV/13/00510 – now constructed), No. 5 Bewsbury Crescent (references DOV/08/01225 and DOV/08/00416), three dwellings rear of Nos. 5 & 7 Bewsbury Crescent (reference DOV/07/00587), and a bungalow to the rear of No. 6 & 6A Bewsbury Crescent (reference DOV/07/00351), as well as other more historic applications.
- 2.16 However, permission has been refused for development along the southern side of Bewsbury Crescent (backing onto the public bridleway). This includes an outline application for a detached dwelling (bungalow) to the rear of No. 17 Bewsbury Crescent (DOV/18/00105) which was dismissed at appeal. The reasons for refusal related to noise and disturbance of neighbouring occupants (as a result of the proposed driveway) and impact on character and appearance. However, the appeal Inspector considered that the proposal would relate well to the prevailing pattern of development and that no harm would arise to the visual quality of the site and surrounding area. Making reference to proposals at Nos. 19 and 21 Bewsbury Crescent (discussed below) which also related to tandem development, it was noted that that the previous Inspector concluded that in this respect, the proposed dwellings would be in keeping with the established residential character and they saw no reason to dissent from this view.
- 2.17 There have also been 3 refused applications for 2no. single storey dwellings to the rear of 19 and 21 Bewsbury Crescent (DOV/16/00909, DOV/15/01065 and DOV/14/00726). The most recent of these applications (DOV/16/00909) was refused and dismissed at appeal, with the main issue being the effect on the living conditions of Nos. 19 and 21 Bewsbury Crescent (due to the proximity of the driveway to both dwellings and the effect of the vehicle movements and unsatisfactory level of disturbance). Throughout the course of previous applications and appeals at the site, the principle of the backland development

has been considered not to harm the pattern of development, nor the character and appearance of the area. As such, it did not form a reason for refusal for application DOV/16/00909 or DOV/15/01065. The Inspector's decision for DOV/15/01065 notes that a previous Inspector concluded that the proposed dwellings would be in keeping with the established residential character of the area and on this basis, the Council did not object to the development in principle.

- 2.18 This area has been subject to quite a detailed planning history relating to backland development. The approval of two more recent applications along the northeastern side of Bewsbury Crescent since the determination of the previous scheme on this site (DOV/20/00538) and the approach taken by the Inspectors in the other cases discussed along this southern section of Bewsbury Crescent, has warranted a review of the robustness of ground 1 of the previous refusal. It's recognised that these issues are finally balanced, and not every site context is identical, nevertheless, it's now concluded that should all other matters be acceptable, ground 1 by itself would be unlikely to constitute a sufficiently strong basis for refusing the current application. Further commentary in respect of the impact of the dwelling on the street scene and character of the area is provided below.

#### Impact on the Character and Appearance of the Street Scene

- 2.19 The site is located within a predominantly residential area and, as discussed at paragraph 1.2, Bewsbury Crescent contains dwellings of a mix of designs, materials and heights. As such, the character of the street scene is considered to be varied. Whilst there is a strong building line along Bewsbury Crescent, as discussed above, there have been a number of applications within the Crescent to erect dwellings in the rear gardens of properties.
- 2.20 In respect of the proposed extensions and alterations to No. 31 Bewsbury Crescent, a garage would be constructed to the southwest side of the dwelling, which would be finished in multi stock red brick and a plain clay tiled roof which would match the materials of the existing dwelling. However, a new pitched roof would be installed, which would be approximately 1.5m taller than the ridge of the existing barn hipped roof. Two flat roofed dormers would be installed on the front roof slope, serving the first floor level bedrooms. Whilst this would result in a noticeable change to the existing scenario, there are several properties in proximity to the site with pitched roofs and flat roofed dormers and as such, this aspect of the development is considered to be sympathetic to local character, and would preserve the character and appearance of the street scene.
- 2.21 In respect of the proposed bungalow to the rear of No. 31 Bewsbury Crescent, the proposed bungalow would be a single storey in height only. It would be set approximately 47m back from the highway and would be accessed via a driveway to the northeast side of the existing dwelling (the existing garage would be demolished). The proposed bungalow would be finished in multi-stock red brick and oak feather edged boarding, with a natural slate roof and timber windows and doors.
- 2.22 The previous refusal, which is a material consideration to the assessment of this application, cited the location of the proposed dwelling being out of keeping with the prevailing pattern of development (as backland housing is not prevalent). However, as discussed at Paragraphs 2.15 to 2.18, several applications for backland houses have since been granted and these approvals are also material. Whilst visible, the proposed bungalow would be largely obscured from view of

the public highway in Bewsbury Crescent by the existing dwelling (No. 31 Bewsbury Crescent). There would be some views of the bungalow and attached garage when stood directly in front of the associated driveway and from the public bridleway to the rear of the site and in these views the development would be of a spatial type which is not readily found in the vicinity. It is therefore understandable why the previous application for this site was refused. However, the approvals of dwellings to the rear of other dwellings will alter the street scene within which the proposed dwelling would be seen. As discussed at paragraph 2.18, the principle of backland development along this southern section of Bewsbury Crescent has been found to be acceptable in principle at appeal (albeit permission has been refused for other reasons). On balance, due to this, together with the limited visual impact of the dwelling, the development is not considered to cause significant harm to the varied character and appearance of the street scene, in accordance with Paragraph 127 of the NPPF. Should permission be granted, a condition is suggested requiring samples of materials to be used on the external surfaces of both the proposed bungalow and extensions/alterations to the existing property (No. 31 Bewsbury Crescent) to be submitted, in the interests of visual amenity.

#### Impact on Residential Amenity

##### Impact from Alterations to the Existing Dwelling

- 2.23 The proposals would result in extensions and alterations to the existing dwelling which would be most visible from properties on either side (Nos. 29 and 33 Bewsbury Crescent). However, due to the materials (which would match those of the existing dwelling), the scale and the separation distance from these neighbouring properties, the development to the existing dwelling is considered unlikely to result in undue harm to the residential amenities of surrounding occupants in respect of overshadowing or overbearing. The proposed extensions and alterations introduce no windows on the flank elevations of the development (which would directly face neighbouring properties) and the windows proposed on the front and rear elevations would predominantly overlook the public highway and garden of the application site (and proposed bungalow to the rear). As such, the proposed development to the existing dwelling is considered unlikely to result in undue harm to privacy and would accord with the objectives of Paragraph 127 of the NPPF in respect of amenity.

##### Impact from the Proposed Dwelling

- 2.24 With regard to the proposed bungalow to the rear of No. 31 Bewsbury Crescent, this would be accessed via a private driveway (utilising the existing vehicular access) which would be adjacent to the existing dwelling. Located to the east of the site, No. 29 Bewsbury Crescent is set back from the site boundary by its own driveway, which leads to a garage to the rear of the property. However, there are two windows on the flank elevation of the dwelling (one of which is believed to be a secondary window to a larger window on the front elevation of the dwelling, likely to serve a living/sitting room, with the other window likely serving a kitchen) and a glazed conservatory to the rear of the dwelling, which directly face the site.
- 2.25 As discussed at paragraph 2.14 of this report, under the previous planning application (DOV/20/00538) the driveway was to be finished in permeable pavers and gravel. This, together with the level of activity from the driveway (and subsequent impact on amenities of Nos. 29 and 31 Bewsbury Crescent) formed

a reason for refusal of the previous application. Under this revised application, the existing driveway would be extended in order to provide access to the new three bedroomed bungalow and would be finished in permeable paviour. Should permission be granted, it is considered appropriate to require further details of this surface as part of a landscaping condition, however subject to this, it is considered the proposed surface would result in less noise and disturbance to the occupiers of both Nos. 29 and 31 Bewsbury Crescent than the previous treatment proposed.

- 2.26 The drive provides the opportunity for a level of activity, comings and goings and associated general noise and disturbance, which is not currently experienced by the occupiers of No. 29 Bewsbury Crescent, particularly as the driveway would extend to approximately half the depth of the existing garden and would be directly adjacent to the site boundary. However, as outlined above, a gravel surface is no longer proposed and, subject to a condition requiring further details, a permeable paviour surface would result in less noise and disturbance from both vehicle and pedestrian movements on the driveway. In respect of boundary treatments, the site is currently bounded by tall hedgerow to the east (forming the boundary with No. 29 Bewsbury Crescent) which would be removed and a new 1.8m tall close boarded fence would be installed along the entire length of the boundary. A mature green beech hedge would be planted adjacent to this within the site ranging from 1.5m to 1.8m in height and a number of field maple trees would be planted as part of this hedge.
- 2.27 Under the previous application (DOV/20/00538), few details of this boundary treatment were shown on the proposed block plan and the application form clarified that this would be comprised of hedges and closeboarded fencing. Under this application, further information of the height and design of the boundary treatment has been provided, such that it is considered the boundary would be visually attractive and would (together with the changed driveway surface) reduce the noise and disturbance from the use of the driveway.
- 2.28 Whilst the siting, scale and design of the bungalow has not changed from the previous application (and therefore neither has the number of proposed occupants or their likely number of vehicles and level of use of the driveway) the change to the surface of the driveway and boundary treatment is considered to reduce the level of noise and disturbance the use of the access would generate. This, together with the limited number of vehicle movements that would be generated by the 3 bedroom bungalow is, on balance, considered unlikely to result in significant harm to the residential amenities of the neighbouring occupiers of Nos. 29 and 31 Bewsbury Crescent in respect of noise and disturbance and overcomes the previous reason for refusal.
- 2.29 The proposed dwelling would be a single storey in height and due to its scale and design, is considered unlikely to result in an unduly overbearing impact to the residential amenities of neighbouring occupants of Bewsbury Crescent, Singledge Lane or Castle Drive. Furthermore, due to the scale and siting of the dwelling, the development would be unlikely to result in undue overshadowing to neighbouring properties. In respect of privacy, the proposed landscaping plan and site section indicate that the boundary fencing and planting, 1.8m in height, would partially screen the development from neighbouring properties. The proposed dwelling would feature windows on the front and rear elevations which would overlook the private parking area or private garden of the property, although the rear windows of some properties on Castle Drive (to the southeast) would be visible due to the reduced height of the hedgerow lining the public

bridleway. Nonetheless, details of boundary treatments are suggested to be submitted by condition, which would require the type and height of this southeastern boundary treatment to be submitted in the interests of visual and residential amenity. Furthermore, due to the separation distance between the proposed dwelling and dwellings of Castle Drive, the development is considered unlikely to result in unacceptable harm to privacy. One window is proposed on the southwest flank elevation, which would serve an en-suite bathroom. In order to preserve the privacy of neighbouring occupants, it is considered appropriate to suggest a condition is imposed requiring this window to be fitted with obscured glazing and be non-opening below 1.7m above internal ground level. Subject to this, the development is considered unlikely to result in significant harm to the privacy of surrounding residents.

- 2.30 Conditions are also suggested requiring further details of hard and soft landscaping, including all boundary treatments and driveway surfaces to be submitted. In the interests of privacy, and to prevent the creation of dormer windows within the proposed bungalow under permitted development rights, a condition is also suggested restricting permitted development rights under class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

#### Amenity of the Proposed Occupiers

- 2.31 The proposed dwelling would contain three well-sized bedrooms, with a large open plan living/kitchen/dining room with windows and doors leading out to the private rear garden. No details of secured bicycle storage or refuse/recycling storage have been shown, however conditions have been suggested for these details to be submitted should permission be granted. Subject to this, it is considered the proposals would provide a good standard of amenity which would accord with Paragraph 127 of the NPPF.

#### Other Material Considerations

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

- 2.32 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.33 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.34 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.



- 2.35 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.36 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.
- 2.37 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

#### Impact on Parking/Highways

- 2.38 The existing garage to the northeast side of No. 31 Bewsbury Crescent would be demolished and a driveway, finished in permeable paviour, would be installed to serve the proposed bungalow. The existing vehicular access would serve this driveway. To the front of the proposed bungalow would be a parking and turning area, with space to park at least two vehicles (with an additional space provided within the proposed garage). This would accord with the parking requirements set out in Policy DM13, which require a minimum of 1.5 spaces to be provided for a three bedroom dwelling in this location.
- 2.39 In respect of the existing dwelling, a new parking and turning area would be created to the front of the dwelling and an access would be installed accordingly. The driveway would also be finished in permeable paviour and would provide at least two parking spaces, with an additional space being provided within the proposed garage to the southwest side of the dwelling. Again, this would accord with the parking provision requirements of Policy DM13.
- 2.40 In line with The Council's emerging policy approach and with the sustainable transport objectives of the NPPF, it is suggested that should permission be granted, a condition be imposed requiring cabling to be installed to serve the spaces, to enable the installation of vehicle charging points. A condition is also suggested requiring the proposed driveways/parking areas to be completed, surfaced and drainage measures installed (to prevent the runoff of water onto the highway) prior to first use (in respect of the existing dwelling) or first occupation (in respect of the new bungalow).

#### Impact on Flood Risk

- 2.41 The application site is located in Flood Zone 1 which has the lowest risk from flooding. Due to the size of the site (less than 1 hectare), a flood risk assessment is not required. Furthermore, as the proposed dwelling would be located within Flood Zone 1, a sequential test is not required. Nonetheless, a condition for details of surface water disposal to be submitted is suggested. Subject to this, the development is considered acceptable in this regard.

### Drainage

- 2.42 Southern Water was consulted on the application and advise that a formal application for a connection to the public foul sewer would need to be made by the applicant or developer. Should permission be granted, their consultation comments will be included on the decision notice as an informative. The application form states the disposal method for foul sewage is via the mains sewer. Nonetheless, it is considered appropriate to suggest a condition is imposed requiring further details to be submitted and subject to this, the proposal is considered acceptable in this regard.

### Wildlife/Ecology

- 2.43 The site relates to garden land which appears reasonably well maintained, is bounded by fences and, having regard to Natural England advice, is considered unlikely to provide a suitable habitat for European Protected Species.

### Safety

- 2.44 Concerns have been raised in public representations regarding access for emergency vehicles such as fire engines. As such, it is suggested a condition is imposed requiring a sprinkler system to be installed within the new bungalow to the rear of No. 31 Bewsbury Crescent.

## **3. Conclusion**

- 3.1 The application site is located within the settlement confines and the proposed erection of a dwelling and detached garage with associated access, and alterations and extensions to the existing dwelling is considered acceptable in principle in this location. In respect of the works to the existing dwelling, due to the design and appearance of the proposals, the development is considered to preserve the varied character and appearance of the street scene and would be unlikely to result in undue harm to the amenities of neighbouring residents. In respect of the proposed bungalow, there would be limited views of the dwelling from the public highway. Having regard to the recently approved backland development to the north east section of Bewsbury Crescent (granted since the refusal of the previous application at this site), and to the appeal decisions for backland development along this southern section of Bewsbury Crescent, it is considered the principle of tandem development can be considered acceptable. Due to the design, siting and scale of the development, and subject to the conditions suggested, on balance, the development is not considered to cause significant harm to the varied character and appearance of the street scene. Whilst the proposed driveway would result in some noise and disturbance, for the reasons discussed in this report and subject to the suggested conditions, on balance, this is considered unlikely to result in unacceptable harm to residential amenity. Furthermore, the development is considered unlikely to result in unacceptable harm in respect of overbearing, overshadowing or harm to the privacy of nearby residents. Having regard to the tilted balance engaged by Paragraph 11 of the NPPF, for the reasons outlined above, it is considered that the disbenefits of the application do not significantly and demonstrably outweigh the benefits of the development. Subject to the conditions suggested below, it is considered that, on balance, the proposed development would accord with the aims and objectives of the NPPF.

**g)**

**Recommendation**

I PERMISSION BE GRANTED subject to conditions:

(1) Standard time condition, (2) list of approved plans (3) samples of materials (4) details of soft and hard landscaping (including boundary treatments and driveway/hardstanding surfaces) and schedule of planting (5) provision and retention of the parking area with drainage measures installed and completion of the dropped kerb for the new access before first use (6) details of surface water disposal (7) details of foul sewage disposal (8) cables for EV charging points (9) details of secured cycle storage (10) details of refuse and recycling storage (11) bathroom window on west elevation of new bungalow to be fitted with obscured glazing and be non-opening below 1.7m above internal ground level (12) removal of permitted development rights for Class B of Part 1, Schedule 2 of the GPDO in respect of proposed bungalow (13) details to be submitted of a sprinkler system to be installed in the new bungalow

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 recommendation and as resolved by the Planning Committee.

Case Officer

Rachel Morgan