

Public Document Pack



Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Fax: (01304) 872452
DX: 6312
Minicom: (01304) 820115
Website: www.dover.gov.uk
e-mail: democraticservices@dover.gov.uk

7 July 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 15 July 2021 at 6.00 pm when the following business will be transacted.

Members of the public who require further information are asked to contact Kate Batty-Smith, Democratic Services Officer on (01304) 872303 or by e-mail at democraticservices@dover.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to 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
P D Jull
O C de R Richardson
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 24 June 2021 (to follow).

5 **ITEMS DEFERRED** (Page 5)

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

ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING

6 **APPLICATION NOS DOV/21/00506 - HOURS, CHURCH ROAD, COLDRED & DOV/21/00311 - WOODLAND ADJACENT TO HOURS, CHURCH ROAD, COLDRED** (Pages 6-19)

DOV/21/00506 - Erection of detached dwelling and double garage (existing dwelling to be demolished)

DOV/21/00311 - Groundworks to include infill with inert material to stabilise bank for the protection of (Tree Preservation Order) trees

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

7 **APPLICATION NO DOV/20/00510 - KARMA LEISURE LTD, ADRIAN STREET, DOVER** (Pages 20-51)

Erection of two buildings incorporating 29 flats and home working hub (existing building to be demolished)

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

ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING

8 **APPEALS AND INFORMAL HEARINGS** (Pages 52-53)

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

9 **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.
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- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes will be published on our website as soon as practicably possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
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Large print copies of this agenda can be supplied on request.

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

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

Other Significant Interest (OSI)

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

Voluntary Announcement of Other Interests (VAOI)

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

Note to the Code:

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

DOVER DISTRICT COUNCIL

REPORT OF THE HEAD OF PLANNING, REGENERATION AND DEVELOPMENT

PLANNING COMMITTEE – 15 JULY 2021

CONSIDERATION OF THE FOLLOWING ITEMS HAS BEEN DEFERRED AT PREVIOUS MEETINGS

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

1. **DOV/20/01236** **Erection of 5 three-storey (90 bed) motel buildings; 1 two-storey reception building; 2 single storey buildings for welfare and storage; installation of solar panels to roof of motel and reception buildings; and associated coach, lorry and car parking**

- & DOV/20/01220** **Erection of mixed-use development comprising swimming pool, restaurant, bar and mixed-use Class E (Commercial Business and Service)**

- Dover Marina Curve Phases 1A and 1B, Dover Harbour (Agenda Item 10 of 22 April 2021)**

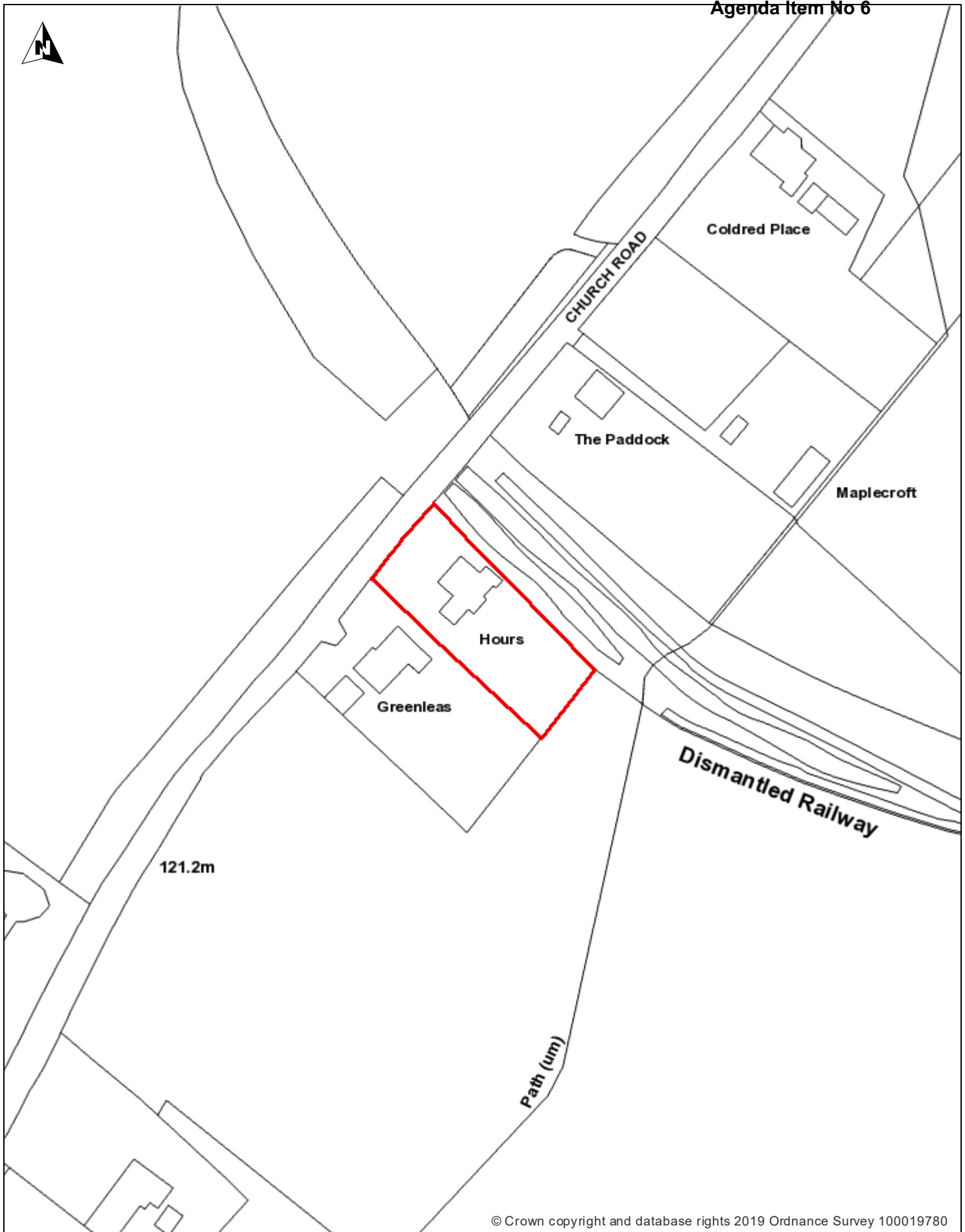
Background Papers:

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

LOIS JARRETT

Head of Planning, Regeneration and Development

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



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21/00506
Hours, Church Road
Coldred
CT15 5AQ

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/21/00506 – Erection of detached dwelling and double garage (existing dwelling to be demolished) - Hours, Church Road, Coldred**

Reason for report – Number of objections (12 third party and 1 Parish Council)

- b) **Summary of Recommendation**

Planning permission be approved.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010)(CS)

CP1 – Settlement Hierarchy
DM1 – Settlement Boundaries
DM15 – Countryside
DM16 – Landscape

National Planning Policy Framework (NPPF) (2019)

7, 8, 11, 127, 170

Draft Dover District Local Plan

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

- d) **Relevant Planning History**

DOV/21/00311 - Groundworks to include infill with inert material to stabilise bank for the protection of (TPO) trees. – Subject of appeal against non-determination.

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

Shepherdswell Parish Council – Object to the proposal as it would out of keeping with the existing street scene and would

KCC Public Rights of Way – No comments.

KCC Archaeology – No response at time of report. If received, Members will be updated during the meeting.

Public Representations

12 members of the public have objected to the proposals and the material considerations are summarised below. Matters such as impact on an individuals' property value, financial intentions of the applicant etc. are non-material considerations and are not included below.

- Not suitable for the area
- Proposal will change the 'atmosphere' of the area

- Proposal will tower over the area, road and neighbours
- Would degrade the hamlet
- Out of place in charming historic village
- Result in amenity harm to neighbours
- Overwhelming
- Not in keeping with the area
- No other 3-storey buildings in the village
- Complete change in 'look and feel' of Coldred

12 members of the public support the proposals and the material considerations are summarised below.

- Existing bungalow needs upgrading
- The house will 'look amazing'
- Would add to the character of the area
- Good addition to the village
- Footprint not excessive
- Improve village
- Replace a tired bungalow which has been extended multiple times
- Village already benefits from various types of properties
- Provide suitable living space without need for more building in the countryside

f) 1. The Site and the Proposal

- 1.1 The application site is a large residential plot located on the south-eastern side of Church Road to the north of Coldred. The site has an existing bungalow, vehicle access and driveway to the front of the plot, with a large lawned garden to the rear. The boundaries are mainly post and wire fences with only limited vegetation to the rear of the site and along the boundary shared with Green Leas, a single storey dwelling to the southwest. There is a dense, mature hedgerow to the front boundary although the existing bungalow can be seen from Church Road in views across the front garden of Green Leas. The rear boundary is open to the farmland beyond and the northern boundary is formed by a woodland which is self-seeded in a former railway cutting (see application DOV/21/00311, also on this agenda).
- 1.2 The existing bungalow has been extended several times in the past and many of the internal rooms are dark. The applicant indicates that the building is in need of extensive renovations to bring it up to modern living standards and as such it is proposed to demolish the existing building and replace it with a new 2-storey (plus loft rooms) dwelling more suitable to modern living. The new building would be set largely on the footprint of the existing bungalow albeit a storey and a half taller than the existing building on the site. It would be built in red brick with a clay tile roof and white uPVC windows and doors. A separate brick built double garage to the front of the property is also proposed.
- 1.3 It should be noted that the drawings have been amended since the original consultations took place to include a landscaping plan, obscure glazed screen to the proposed first floor rear balcony, and obscure glazed windows to the south-western and south-eastern elevations at first floor level and above to overcome Officer concerns with regard to existing residential amenities.

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on the Street Scene, Countryside and Landscape
- Impact on Residential Amenity

Assessment

Principle of Development

2.2 The site is currently occupied by a detached bungalow (to be demolished) and whilst outside of settlement confines, the proposal would be ancillary to the existing residential use of the land. The replacement of a dwelling in existing lawful residential use with a new dwelling would comply with Policy DM1 of the Core Strategy (CS). The acceptability of the proposal turns on the suitability of the details submitted, rather than the issue of the principle of a replacement.

Impact on the Street Scene, Countryside and Landscape

2.3 The proposed replacement dwelling is of significantly more bulk and volume than the existing bungalow and will have an impact on the both the street scene and countryside/landscape in the immediately surrounding area.

2.4 There are several other 2 storey buildings in the area in and around Coldred but few which have dormer windows serving a second-floor level within the roof slope. However, there is a two-storey dwelling with second floor dormer windows approximately 130m to the north-east, 2no. properties away on Church Road. Given this, it is not considered that the proposal introduces a new form of development not already in evidence in the immediate vicinity.

2.5 The woodland to the north-east is currently visible in views from the road, above the existing bungalow. The proposed dwelling would screen these views significantly but would unlikely be taller than this dense treeline, against which the proposed dwelling would be viewed from the south-west. Views from the north-east would be limited given the woodland. Views from the public footpath in the field to the south-east of the site would also see the proposed dwelling against a line of trees and against the mature woodland. The most prominent elevation, that facing south-west in views from Church Road, is well articulated and 'broken up', not presenting an unduly bulky form. Only the roof would be highly visible above the roof of Green Leas, with the ground and first floors no higher than the ridge height of Green Leas; the ridge height of Green Leas is 0.5m higher than the soffit height of the proposed dwelling. This is supported by revised drawings and a section drawing through the two sites, requested in response to enquiries by officers about the precise visual impact of the dwelling from Church Road and its relationship with Green Leas. As a consequence of these details, which help to more accurately convey the appearance of the development, your officers are satisfied that the replacement dwelling would not be unduly bulky in public views and would largely be seen in the context of mature wooded areas which would still dominate the proposed dwelling, retaining much of the greenness of the area. The retention of the mature hedgerow on the front boundary (shared with Church Road) would help to minimise the visual impact of the proposed dwelling. Only the upper section of the roof would be visible above Green Leas. Conditions have been added at the end of this report

to secure the retention of the hedgerow and the submission of more detailed section drawings.

- 2.6 The proposed materials of red brick, clay tiles and white finished windows and doors are typical of the area and would not be out of keeping with the hamlet nor introduce materials at odds with the rural location. The overall form of the proposed replacement dwelling is perhaps more urban than rural given the high hipped roof form however, given that the proposed replacement dwelling makes use of materials typical to the area and would not be significantly taller than similarly sized nearby dwellings, with only part of the roof visible above the ridge line of Green Leas, and the elevations well-articulated to break up the visual bulk, it is not considered to be unduly harmful to the visual amenity of the street scene or to the character and appearance of the countryside or landscape. Overall, the proposal would comply with Paragraphs 127 and 170 of the NPPF and Policies DM15 and DM16 of the CS.

Impact on Residential Amenity

- 2.7 There were several concerns with the proposal as originally submitted in terms of impact on existing residential amenities. The only neighbour directly impacted by the proposal is Green Leas to the south-west which has bedroom and bathroom windows facing the application site, as well as sharing a (currently) open boundary, enclosed only with loose low planting and post and wire fences. The proposed replacement dwelling has a number of windows at first floor level, as well as a proposed balcony, which raised concerns with regards to interlooking, overlooking and loss of privacy to Green Leas. There was also concern about a loss of privacy and overlooking to the large rear garden area of Green Leas from other windows on the rear elevation at first and second floor levels. Amendments were sought to the proposal to overcome these concerns.
- 2.8 The first-floor south-west facing windows will all be obscure glazed, with openings only above 1.7m which will prevent interlooking, overlooking and loss of privacy from these windows. This includes windows serving the south-eastern bedroom and the windows facing south-west serving the master bedroom. A condition has been added to the suggested conditions at the end of this report to secure their implementation and future retention.
- 2.9 A 1.8m high obscure glazed screen has been added to the south-western side of the proposed balcony serving the master bedroom. This will restrict views from this balcony to the back of the application site and into the woodlands to the north. With this screen in place, it is unlikely the first-floor balcony will increase the opportunity for overlooking or loss of privacy to the garden of Green Leas. A condition has been added to the suggested conditions at the end of this report to secure the installation and retention of this screen.
- 2.10 The second-floor rear dormer window was also of concern. This would serve a bathroom and as such, the proposed window was changed to obscure glazing with no opening below 1.7m. Again, this can be secured by condition. The rear-facing, first floor window serving a bedroom in the south-eastern corner of the proposed dwelling has a predominantly rear facing outlook looking towards the back garden of the host dwelling. Whilst there may be some small level of increased opportunity (from oblique views) for overlooking from this window to the rear of the garden serving Green Leas, the proposed rear facing aspect is not considered to be an untypical arrangement and as such would not lead to unacceptable harm. Notwithstanding, a landscaping scheme was requested

which would increase the planting along the boundary shared with Green Leas. This is currently open and the planting here would provide additional screening in the form of a native species hedgerow interspersed with taller trees, which would further mitigate concerns about overlooking. The implementation of this landscaping plan can be secured by condition.

- 2.11 It is unlikely that the proposed replacement dwelling would result in any loss of light to Green Leas nor would it result in a loss of outlook to this neighbour given the distance to the boundary and its position north-east of Green Leas. It would be unlikely to result in a sense of enclosure given the distance to the boundary. Overall, it is considered that the proposal would not result in undue harm to existing residential amenities which cannot be overcome with planning conditions and would therefore comply with Paragraph 127(f) of the NPPF.

Other Matters

- 2.12 The proposal also includes the erection of a new 2-car garage with additional parking for several vehicles to the front of the proposed new dwelling. Policy DM13 of the CS would suggest that a dwelling of this size in a rural location should have a minimum of 2no. independently accessible parking spaces. There would be at least 2no. independently accessible parking space and likely room for up to 4no. vehicles parking outside of the garage, with the garage adding another 2no. spaces to a total of 6no. As such, the proposal would comply with Policy DM13 of the CS.
- 2.13 The site is in an area of archaeological potential. As such, KCC Archaeology were consulted. No response was received at the time of this report however, as the proposed replacement dwelling will be largely on already developed land, there is unlikely to be a high risk to archaeological remains. A condition has been added to the suggested conditions at the end of this report which would ensure that should any remains be found during the course of the development, the works shall cease and a scheme of archaeological works shall be submitted to the LPA for approval prior to the continuance of works.
- 2.14 The proposed dwelling would make use of the existing foul water drainage system already in place at the property. No information with regards to refuse bin storage or bicycle storage has been submitted but this information can be secured by conditions

3. Conclusion

- 3.1 A replacement dwelling in this location is acceptable in principle. It is concluded that the proposal is unlikely to result in harm to the visual amenity of the street scene or to the character and appearance of the countryside or landscape. Concerns regarding the impact on existing residential amenities can be overcome through conditions securing obscure glazing and further mitigated through the implementation of a landscaping plan. Overall, it is considered that the proposed development would comply with the aims and objectives of the NPPF and the CS.

g) Recommendation

- I PERMISSION BE GRANTED subject to the following conditions:

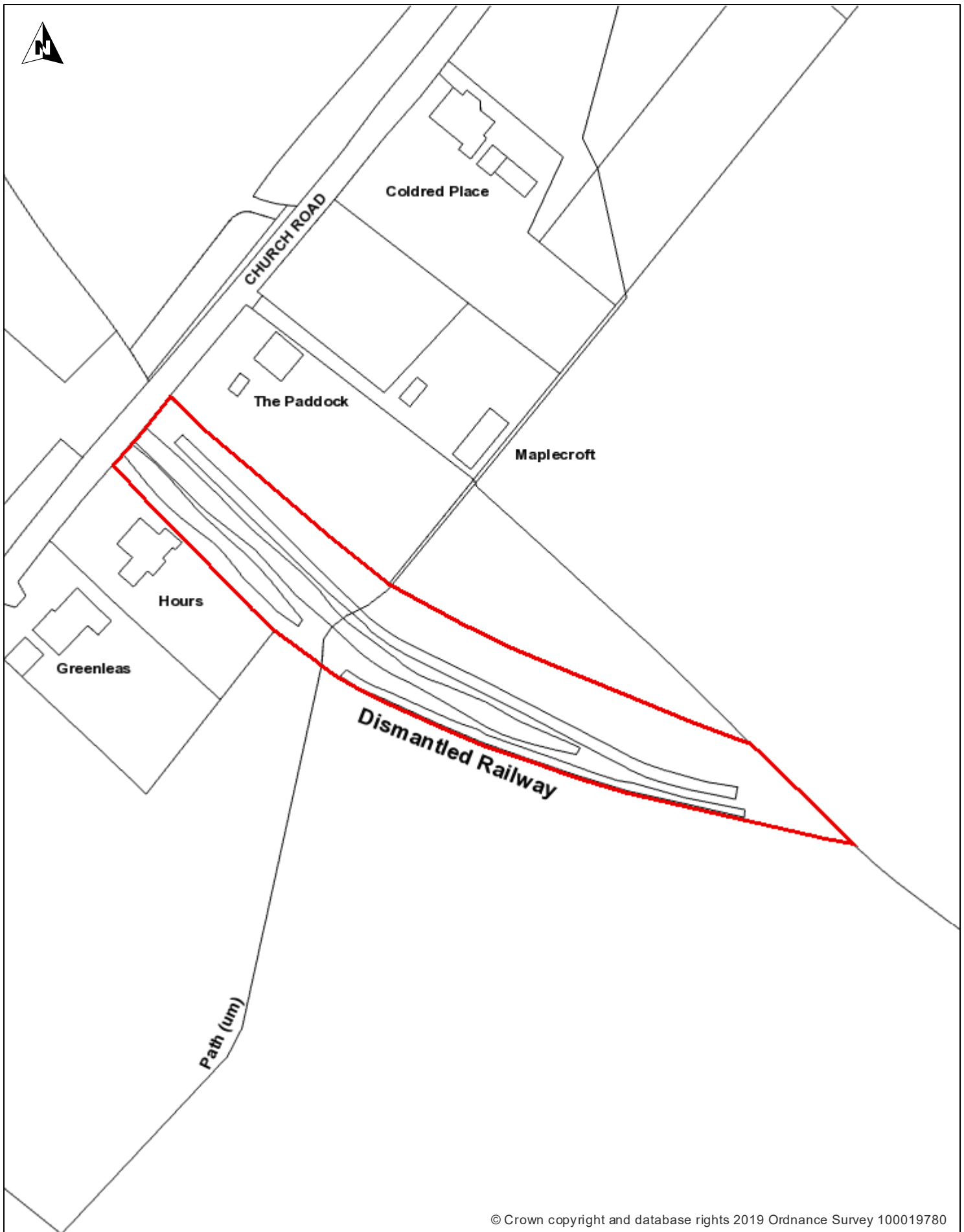
1) 3-year commencement; 2) In accordance with the approved plans; 3) samples

of external materials; 4) Details of bin storage provision; 5) Details of bicycle storage provision; 6) obscure glazing to south-west facing first floor windows, including master bedroom; 7) obscure glazing to second floor rear window; 8) obscure glazed side screen to first floor balcony; 9) Implementation of landscaping plan; 10) provision of parking area shown on drawings; 11) Construction Management Plan: details of construction vehicle parking arrangements, wheel washing, dust suppression etc.; 12) Works to cease should any archaeological remains be found during the course of the development; 13) Protection and retention of existing hedgerow to front boundary; 14) Section drawings through the site and proposed dwelling; 15) Provision of EV charging point infrastructure; 16) Remove PD rights for new windows/openings in the south-western elevations; 17) Remove PD rights for extensions/alterations to the roof.

- 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

Andrew Wallace



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21/00311
Woodland Adjacent To Hours
Church Road, Coldred
CT15 5AQ

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/21/00311 – Groundworks to include infill with inert material to stabilise bank for the protection of (Tree Preservation Order) trees - Woodland adjacent to Hours, Church Road, Coldred**

Reason for report – Number of contrary representations received

- b) **Summary of Recommendation**

Planning permission would have been refused.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010)(CS)

CP1 – Settlement Hierarchy
DM1 – Settlement Boundaries
DM15 – Countryside
DM16 – Landscape

National Planning Policy Framework (NPPF) (2019)

7, 8, 11, 127, 170, 197

- d) **Relevant Planning History**

21/00283	(Works to trees with a TPO) 1no. oak - lateral crown reduction by three metres	Approved
18/00249	(Works to trees with a TPO) Fell one Oak	Refused

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

Shepherdswell Parish Council – Given historical heritage of the ex-rail line site, asked if it would be possible to protect the trees with less infilling or none.

DDC Trees – It was noted that there is a blanket TPO across this area. However, it was also acknowledged that the former railway cutting pre-dates the trees and the TPO, so was open to further discussions and alternative solutions to safeguarding the oak trees whose roots are exposed to the air. They accepted the findings of the submitted arboricultural report. These views were confirmed via email which is visible on the system.

DDC Ecology – Does not wish/need to make any comments on the application.

KCC Public Rights of Way – No comments.

KCC Archaeology – The application involves the infilling of a cutting of the (dismantled) East Kent Light Railway (EKLR). The EKLR was opened in stages from 1911/12 and was constructed to support the development of new collieries and formed part of Colonel Stephens's group of light railways. The EKLR ran from its terminus at Shepherdswell (where there was a connection to the mainline) to Port Richborough, with a branch to Wingham. Smaller branches along the line served various collieries at Tilmanstone and Hammill. The cutting in question forms part of a branch-line that connected to Guilford Colliery, located about 1km to the east of the application site.

It is understood that the rails were lifted from the Guilford Colliery branch of the EKLR in 1937, although rails were later re-laid over part of the branch to provide stabling for rail-mounted guns during WW2.

The remains of the EKLR are of industrial archaeological interest, both in their own right, but also as part of the story of the East Kent Coalfield. The remains of the railway should be thought of as a non-designated heritage asset. The infilling of the cutting and loss of this section of the former track-bed would be regrettable.

The applicant notes the infilling is necessary to stabilise the roots of trees subject to a Tree Preservation Order (TPO 1997, 6 – self-seeded woodland). It is for your council to determine whether the infilling of the railway cutting as a non-designated heritage asset is justified by the safeguarding of the TPO trees. I would note however that the TPO does not identify any specific individual trees but covers the “self-seeded woodland with a canopy predominantly of Ash and Sycamore over an understorey dominated by Hawthorn”. The arboricultural evaluation survey submitted with the application seemingly identifies that the majority of the trees present are mature Ash trees that show varying evidence for Ash die-back and many are identified for felling because of this. The application form states the works are required to preserve the life expectancy of root-exposed oak trees. Three oaks are listed in the arboricultural evaluation survey, however based on the grid-references provided only two of the oaks fall within the cutting. I wonder therefore whether more localised works might be possible, that would serve to protect the two oak trees without resulting in the infilling of the former railway cutting?

Environment Agency – No comments.

Public Representations:

4 members of the public have objected to the proposals and the material considerations are summarised below. Matters such as impact on an individuals' property value, financial intentions of the applicant etc. are non-material considerations and are not included below.

- Local history should not be buried.
- The cutting to be infilled pre-dates the trees covered by the blanket TPO.
- The cutting is evidence of the industrial and cultural past of the area.
- The site should be preserved for future generations.
- A small oasis for wildlife.
- The site should be kept as it is; a site of history/heritage and an area of woodland for wildlife and nature.

9 members of the public support the proposals and the material considerations are summarised below.

- Works would save trees slipping down slopes.
- Infill would make it safer for trees and humans.
- Only front section would be infilled, the rear section would still be visible from the footpath.
- Vital to preserve woodlands.
- Better for flora and fauna.
- Opposite side of road infilled and line of cutting remains clear from the trees.
- No longer evident it is a former cutting, just an overgrown, dangerous hole.

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

- 1.1 The application site relates to a section of a former railway cutting associated with the former local collieries, joining up with the wider East Kent Light Railway. The existing cutting, whilst evident by the deep (4m) trench to the north of Hours (a residential property), has been subject to erosion and landslip in the past and now roughly forms a 'V' rather than a crisp rectilinear cutting. A number of trees (largely ash alongside other varied species, including oak) have self-seeded in the cutting. There is a blanket TPO which covers all self-seeded trees.
- 1.2 The former cutting has been cut into two separate sections; one section which runs the full length of the residential land of Hours (and adjoins Hours) and ends at a public footpath crossing (ER94), and a second section of cutting beyond the footpath (to the east) surrounded by open farmland. These two sections of the cutting are some of the only remaining unfilled parts of the former rail line in this area and are considered to be non-designated heritage assets. Both sections of the cutting are in the ownership of Hours but do not constitute residential or garden land.
- 1.3 The application seeks to infill the front section (north-west from the footpath crossing) with inert spoil (mainly chalk) with a layer of topsoil above. The works are ostensibly to safeguard 2no. Oak trees which have had their root systems largely exposed and are at risk of falling. Although no details were provided within the application, it is the intention to remove the diseased Ash trees and replant the area with new native species to reinforce the woodland and to infill the cutting with inert spoil to bring the land levels up to match that of the garden of Hours for the section of the cutting adjacent to Hours. The additional desire is to make the area safer for the use of the owners of the land (although there is no suggestion of a change of use to residential land such that the applicants wish to include the land within the residential curtilage of Hours) and to help reinforce the public footpath to the south-east of this front section, which is privately maintainable.
- 1.4 The application is the subject of an appeal against Non-Determination lodged by the applicants. As such, we are asking a determination as to what the Council's decision would have been were this application to have been dealt with by Planning Committee. The application is now with the Planning Inspectorate to determine.

2. Main Issues

- 2.1 The main issues for consideration are:
- The principle of the development
 - Impact on Ecology, Biodiversity and Protected Trees
 - Impact on a Non-designated Heritage Asset
 - Impact on Character and Appearance of the Countryside and Landscape

Assessment

Principle of Development

- 2.2 The site lies outside of settlement confines identified in Policy DM1 and is therefore in the countryside for planning purposes.

Impact on Ecology, Biodiversity and Protected Trees

- 2.3 No concerns were raised with regard to ecology, habitats or potential contamination as a result of the proposed infilling, using inert material, nor were any ecological or biodiversity concerns raised with regard to the existing state of the cutting by the Environment Agency or DDC Ecology. DDC Trees has confirmed the blanket Tree Preservation Order as TPO 1997, 6 – self-seeded woodland. It was also acknowledged that the cutting pre-dates both the trees within the cutting and the TPO.
- 2.4 The trees, a number of which are suffering with Ash Dieback, require removal to safeguard uninfected Ash trees. Any other trees requiring removal would need permission from DDC (not Planning), as they're subject of the blanket TPO.
- 2.5 Of major concern are 2no. mature Oak trees, the roots of which have become exposed to the air due to continued erosion into the cutting. Ideally, these tree roots need to be re-buried in some form to prevent them falling into the cutting. It is unlikely that these trees would fall into the garden land of Hours but this cannot be ruled out at this stage. Whilst the back filling required to provide an adequate base for these 2no. trees would be significant, it would not require the full infilling of the cutting. DDC Trees have confirmed that they would be open to discussions about alternative safeguarding measures to safeguard these 2no. Oak trees. DDC Trees also recognised that the cutting pre-dates the trees and the TPO and that a balance needs to be struck between safeguarding protected trees and safeguarding a heritage asset. It's noteworthy that DDC Trees do not raise an in principle objection as such to the loss of these two trees. No alternative schemes to safeguard these 2no. trees has been presented as part of the supporting documentation.

Impact on a Non-Designated Heritage Asset

- 2.6 Paragraph 197 of the NPPF states: 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.' As has been previously noted, much of the eastern parts of the former East Kent Light Railway has been infilled, with farmland or woodland above. This makes the remaining exposed sections of the cuttings more significant in terms of the historical understanding of the previous railway line which supported the nearby collieries.
- 2.7 Whilst the proposal does not result in the full loss of a non-designated heritage asset, as the application site comprises only a small section of the former railway line, it would result in a further erosion of this asset's significance and remove more of the asset from view. It would also further reduce the legibility of the route the former railway took between the mainline railways (with access to Port Richborough) and The Winding House on Singledge Lane (part of the former Guilford Colliery). Whilst the treeline does retain this line to some degree, this is only legible in maps and in aerial views, not from the ground where it would appear as simply a woodland. This new development, in addition to all the other infills, has a cumulative impact that is greater than the actual development itself. Given this, it is considered that there would be harm to this non-designated heritage asset through the loss of a further section of the former railway line/cutting, contrary to Paragraph 197 of the NPPF. This conclusion was agreed

with DDC Heritage who also agreed the wording of these paragraphs. Whether this harm can be balanced by other material considerations is discussed below.

Impact on the Character and Appearance of the Countryside and Landscape

- 2.8 The proposal would have only a limited impact on the character and appearance of the countryside and landscape as it would only be visible to any degree from the public footpath crossing the cutting. However, the change to the views from this part of the footpath would be significant. Where once there was a clear ditch to both the north-west and south-east of the footpath, the land levels would be brought up to the level of the footpath to the north-west. From this vantage point, the loss of the non-designated heritage asset would be readily seen. It is considered that this would result in some level of harm to the character and appearance of the countryside and the landscape, albeit limited – the main concern would be the heritage loss. The backfilling to support the 2no. Oak trees, rather than the full infilling of the cutting, would have far less visual impact on these views and as such, alternatives should be explored.
- 2.9 Whilst this application does not seek to change the use of this land to residential, a conversation with the applicant during a recent site visit suggests that the intended use of the land once the cutting was filled, would have a more formal/managed appearance than it does at present. Even if this falls short of a formal extension of the existing garden at Hours, such an arrangement is more likely to erode the prevailing unspoilt rural character at this point. Notwithstanding, in strict countryside impact terms, given the relatively discrete nature of the site, it is not considered that the proposal would result in harm to the wider character and appearance of the countryside or the landscape (relative to Paragraph 170 of the NPPF and Policies DM15 and DM16 of the CS) sufficient for this to be the basis of an objection that could be sustained at appeal.

3. Conclusion

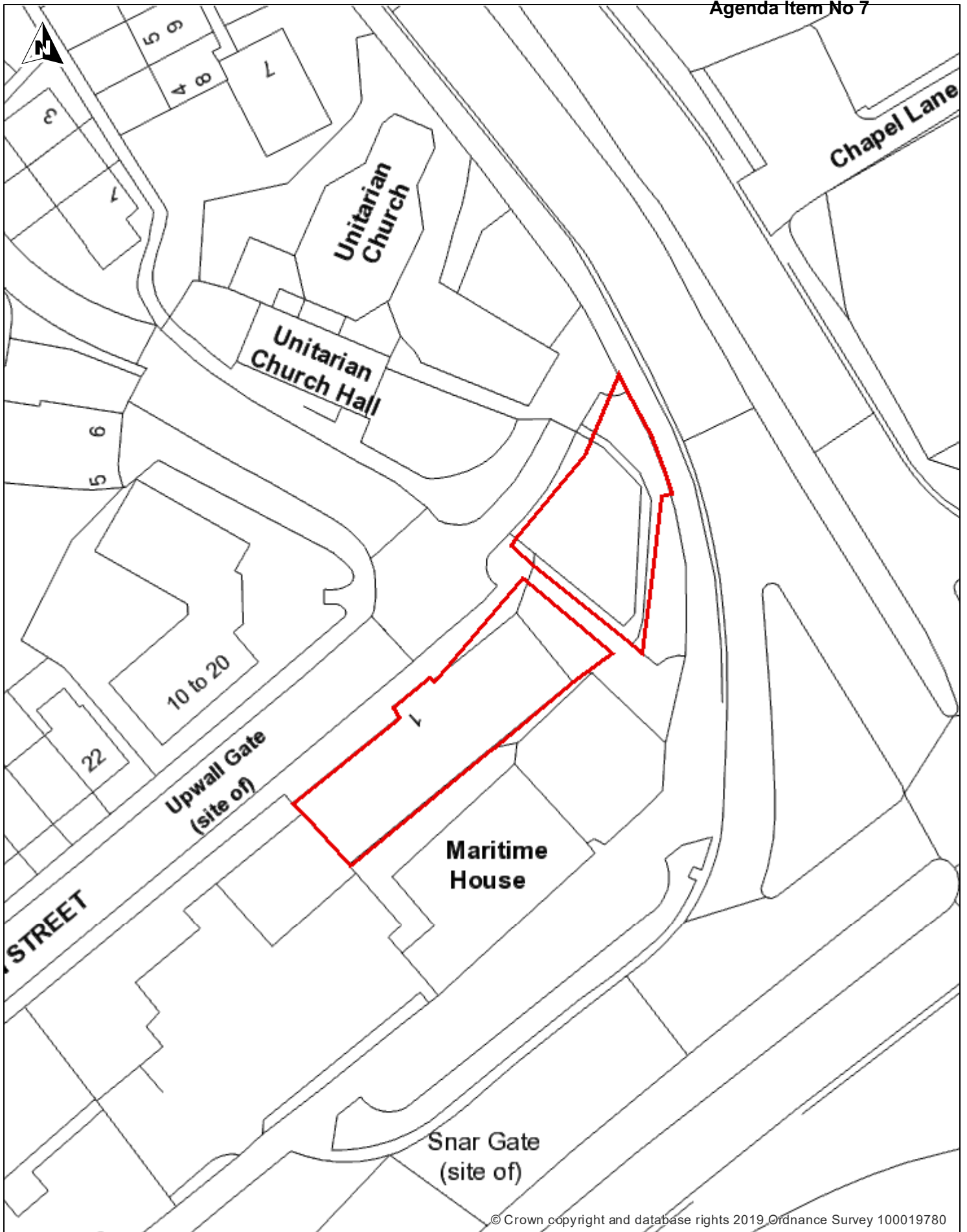
- 3.1 It is concluded that the proposed infilling of the former railway cutting would cause harm to what is a non-designated heritage. Despite being limited in extent, the cumulative impact of this proposal as noted in para 2.7 would be harmful to the significance of the heritage asset and its future understanding. Whilst the proposal would help to safeguard 2no. self-seeded Oak trees, it has been recognised that the proposal may not be the only way to ensure their survival. Furthermore, any risk to these 2 trees (which form part of a wider tree group) are considered, on balance, to be more than outweighed by the harm that would be caused to the loss of the non-designated heritage asset. Strong concerns have been raised to the loss of the cutting by KCC Archaeology. The DDC Heritage Officer has also supported their position. No comments have been received by DDC Trees to suggest that this conclusion is inappropriate. Overall, therefore, it is considered that the harm which would be caused by the proposal in terms of heritage loss, would not be outweighed by the need to safeguard the protected trees in question. It is considered that the proposed development would fail to comply with the aims and objectives of the NPPF and the CS.
- 3.2 Given the above, it is recommended that the application would have been refused for the reasons stated below. As previously noted, Members will not be determining this application but will determine what recommendation they would have reached. This will provide evidence in the appeal against non-determination.

g) Recommendation

- I Permission would have been REFUSED for the following reason/s:
 - (1) The proposed infilling of the historic cutting would result in unjustified harm to a non-designated heritage asset through the loss of the legibility of a rare remaining section of cutting of the East Kent Railway and the local industrial heritage, without overriding justification. The proposal would fail to comply with Paragraph 197 of the National Planning Policy Framework (2019).
- II Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Andrew Wallace



20/00510

Karma Leisure Ltd
Adrian Street, Dover
CT17 9AT

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/20/00510 – Erection of two buildings incorporating 29 flats and home working hub (existing building to be demolished) - Karma Leisure Ltd, Adrian Street, Dover**

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

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policies and Guidance**

Core Strategy Policies

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

Land Allocations Local Plan

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

National Planning Policy Framework 2019 (NPPF)

- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including where an LPA cannot demonstrate a five year housing land supply), granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance (set out in footnote 6) provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole
- Paragraph 12 states that the NPPF does not change the statutory status of the development plan.
 - Chapter five of the NPPF confirms that the Government's objective is to significantly boost the supply of homes and requires authorities to seek to deliver a sufficient supply of homes, based on a local housing need assessment. The size, type and tenure of housing for different groups in the community should be assessed and reflected in policies. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless:
 1. off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
 2. the agreed approach contributes to the objective of creating mixed and balanced communities

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

- Chapter seven supports the role that town centres play at the heart of local communities and seeks to promote their vitality and viability.
- Chapter eight promotes healthy and safe communities. This includes the promotion of social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Developments should be safe and accessible, so that crime and disorder and the fear of crime and disorder do not undermine the quality of life or community cohesion. Policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; and ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.
- Chapter nine promotes sustainable transport, requiring that the planning system should actively manage patterns of growth in support of this objective; although opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

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

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

- Chapter fourteen requires that development should be directed away from areas at the highest risk from flooding. Regard must be had for other sources of flooding.
- Chapter sixteen requires that applicants describe the significance of any heritage assets affected by the development, including any contribution to their setting. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Account should be taken when determining applications of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character

and distinctiveness. Great weight should be given to the conservation of designated heritage assets. Where total loss of or substantial harm to a designated heritage asset would be caused, permission should be refused unless the exceptions at paragraph 195 are met. Where less than substantial harm would be caused this harm should be weighed against the public benefits. The effect on the significance of non-designated heritage assets should be taken into account

The Kent Design Guide (KDG)

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

d) **Relevant Planning History**

DOV/06/01190 – Outline application for the erection of 15 flats (existing building to be demolished) – Granted

DOV/16/01460 - Erection of a portable building to be used as a soup kitchen and provision of a portable toilet – Granted

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

KCC Highways – I refer to the above planning application and confirm I have no objection in principle to there being no parking within the site bearing in mind the sustainable location and public car park available in Albany Place. However, the existing on-street parking in Adrian Street and Chapel Place appears well used already and will not accommodate the potential further demand from 29 flats. Adrian Street and Chapel Place have on-street bays/double yellow line restrictions along one side and single yellow line restrictions along the other, but are not wide enough to accommodate cars parked on both sides without encroachment onto the footway. I am concerned that residents of the proposed flats will chose to park on the road overnight (outside the restricted times) and park partly on the footway in order to leave sufficient carriageway width, rather than use the public car park further away from the site. The proposals should therefore include changing the single yellow lines to double yellow lines in Adrian Street and Chapel Place, and this should be shown on the plans.

KCC PROW - There are no public rights of way adjacent to the development however two national trails The North Downs Way and The England Coastal Path run to the front of the site along Adrian Street. I don't believe the development will have any greater impact on the trails through the town, however the developer must consider these routes and not impact upon them in any way, including the storing of materials, closure or obstruction of the trails.

KCC Archaeology – *Initial response received 8th June 2020:*

The proposed development lies in an area of Dover that is archaeologically sensitive. Based on current information I think there is a high potential that important archaeological remains could be present within the proposed development site. These potentially could include significant remains of Roman and medieval date, possibly including remains of national importance. It is therefore recommended that further information, in the form of an archaeological field evaluation, should be sought prior to the determination of this planning application.

Dover has long been of strategic significance, both for maritime trade and for defence.

In 1992 during works along the A20 the remains of the Dover Bronze Age Boat were found deeply buried within sediments lain down within the mouth of the Dour Estuary. The boat was discovered around 100m to the east of the proposed development site. The proposed development site lies on the western edge of the estuary in which the boat was found. There is evidence for prehistoric activity along the western estuary edge, including pits and other features of possible Neolithic date, spreads of Neolithic flints and pottery finds near Market Square, and Prehistoric flintwork recorded at the nearby Unitarian Church. A ring-ditch, possibly representing the site of a Late Neolithic of Early Bronze Age barrow, is recorded to the north of the site. There is also evidence for Iron Age occupation on this side of the Dour. The sheltered mouth of the Dour Estuary was exploited by the Romans and Dover developed into one of the most important ports in the Province. The Classis Britannica (the Roman naval fleet based in the Channel) established a major base at Dover. The successive forts which made up this base were located about 50m to the north of the site in question. The proposed development site lies within an area of extra-mural settlement just outside of the fort. Investigations on the site in the 1950s demonstrated the presence of intact Roman building remains, including substantial walls, opus-signinum floors and plastered walls. This would suggest that a Roman building of some status was situated at the site. Other remains in the area include a Romano-British cemetery located further along Adrian Street. Less is known about the occupation of this part of Dover in the early medieval period. Excavations to the north, in the area of the modern-day Discovery Centre, revealed evidence for sunken featured buildings and halls of Anglo-Saxon date and it is thought likely that early medieval occupation was initially focussed to the north. Burials, thought to be of Anglo-Saxon date, were recorded around 100m to the north-west of the application site at Albany Place. Dover continued to be an important settlement in the medieval period. The town was protected by a defensive wall circuit. The exact date of construction and precise extent of the circuit is uncertain. The proposed development site is known to lie towards the south-west corner of the town's wall circuit, perhaps just inside Snar Gate and close to the possible site of Adrian Gate (also known as Upwall Gate). A section of the medieval town wall was observed around 35m to the south-east of the application site under the former York Street roundabout. During clearance work following WW2 bombing a medieval garderobe was found on the site, terraced into the hill between Adrian Street and Snargate Street. Other evidence for medieval activity includes remains of a building, including walls, a floor and demolition deposits found in the Snargate/Adrian Street area and stratified medieval neighbouring the proposed development site. Much of old Adrian Street was cleared immediately prior to WW2 with the application site being cleared later. The site has "a high potential for buried archaeology".

The applicant's impact assessment suggests that "no intact undisturbed archaeological evidence will have survived at Site A1 and it is unlikely that evidence will have survived at A2, assuming cellars beneath former buildings there, although the possibility of partial survival cannot be entirely ruled out". There is not enough evidence to support such a sweeping statement and I suggest that past impacts on the development site and the likelihood of archaeological remains surviving is more nuanced and significantly greater than the applicant suggests. For example, the applicant's impact assessment seemingly does not appreciate the topographical context of the site. The proposed development site lies between Adrian Street and Snargate Street, with Adrian Street being at around 11m aOD and Snargate below at around 6m aOD. In other words, there is a four- to five-meter difference in height between the two streets, As such the site has a complex topography, which is partially obscured by development, with the land falling away both from the south-west to the north-east and from the north-west to the south-east. This means that archaeological levels, and thus the level of any more recent truncation, are unlikely to be uniform across the site. This is not reflected in the applicant's assessment.

I would suggest that the site retains the potential to preserve archaeological deposits across Areas A1 and A2. No assessment is provided in the applicant's archaeological report on how the buildings proposed might impact such remains, nor does the application include any details of proposed foundations or other below ground excavations. Nevertheless, given the scale of the buildings proposed, it is suggested that any impacts have the potential to cause substantial damage to any archaeology present.

As described above the site has the potential to contain significant archaeological remains, potentially including remains associated with a medieval garderobe and a Roman building with plaster and opus-signinum floors and plaster-faced walls. If well-preserved Roman and medieval remains survive at the site, then these could be of a level of importance, such that the starting point in any discussion on the site's redevelopment, revolves around the need to preserve archaeological remains in-situ (i.e. archaeological remains might be present of a level of significance whereby footnote 63 of the NPPF applies). As such I advise, in accordance with paragraph 189 of the NPPF, that in this instance further information in the form of an archaeological field evaluation is necessary to properly understand the character and significance of any archaeological remains present and to understand how the development proposals might affect such remains. The level of information currently provided is inadequate to meet the requirements of paragraph 189 of the NPPF. I therefore strongly recommend that the application should not be determined until an archaeological field evaluation has been carried out. The scope of such a field evaluation should be agreed in advance with the Local Planning Authority.

Subsequent response received 19th February 2021 (following a meeting between KCC Archaeology, the applicant and DDC officers):

This is an archaeologically complex site. The levels shown on the section drawings (provided within a PowerPoint presentation) are a best-fit based on information to hand, but as highlighted in the meeting there remains uncertainty about the precise level at which significant archaeology is located across the site, hence the need for archaeological evaluation works to inform design levels, but I appreciate the mechanism for securing that archaeological evaluation work still needs to be agreed.

DDC Heritage Team – Object

This application concerns development which affects the setting of a grade II listed building, the Unitarian Church, listed in 1973.

In my view the submitted heritage statement does not demonstrate an understanding of how to assess the setting of a listed building and partly as a consequence does not adequately reflect the potential impact of the proposal on the Unitarian Church.

In my view one of the key contributors to the significance of this listed building is its prominent location in an elevated position. With no development to the foreground one is able to appreciate the classical architectural form and detailing of the listed building. The HE listing selection criteria covering places of worship notes that a commonality of Nonconformist chapels are 'striking facades and street frontages' as a result of not needing to follow the East-West orientation, and that up to 1860 Classicism was the preferred architectural style. It is of interest to note the historic maps which show that the building was restrained to a degree by surrounding development and, most notably, the graveyard (with flint construction boundary wall and cast iron railings) would have created a very defined and directed view to the pedimented principle elevation. This historic 'contained' view has altered due to

demolition of surrounding development in the mid C20, and the resulting wider context that is the setting of the listed building today enables an appreciation of its dominant character and architectural form.

I disagree with the assessment of the setting of the listed building in the Heritage Statement. Whilst it is technically in an urban area, surrounding development is not located particularly close to the building. There is considerable space around the building which enables it to be appreciated without any significant visual distraction from adjacent development and its distinct architectural form makes it a significant landmark building; the assessment has indicated no appreciation of the points noted above re. prominence and how one experiences the building in its current context. The car park contributes to the setting only in that lack of development on that site is a positive for the setting of the listed building. I also consider it poor to rely on a grainy historic photograph to determine the impact of historic development around the building and to relate that to the proposed development, which is considerably higher and bulkier than the residential scale buildings that historically stood in the street (building heights can be determined from the 1905 fire insurance maps which indicates 2 and 3 storey buildings). Nonetheless, the denser historic layout of Dover in this area does not exist any longer and is therefore not relevant to the consideration of the proposed development.

The demolition of the existing is of no interest, other than it would remove a rather unattractive structure. The impact of the scale, bulk, massing, design and siting of the proposed development in relation to the listed building is amply demonstrated by the 'composite' south and east elevations; the proposed development will completely overwhelm the listed building and effectively obliterate the view from the south. As existing, the listed building is a prominent landmark building; as proposed, the new development would be aggressively dominant. The proposed development would harm the significance of the listed building. In my view the harm would be less than substantial but at the higher end of the scale.

As the town sits within a valley there are key viewpoints from elevated positions (Dover Castle and Dover Western Heights). It is possible that the proposed development would have a limited impact on the character of the townscape when seen from these vantage points despite its significant size and massing, however it has not been analysed in the submission. Therefore, it is possible that the proposed development would have a wider impact on the historic environment than just the listed Unitarian Church.

DDC Environmental Health – No objection, but have recommended that conditions be attached to any grant of permission. The contaminated land report submitted in support of this application is accepted. A condition regarding pre development unexploded ordinance assessment is recommended, as is a contaminated land watching brief. There is a busy road / junction (A20 / A256) adjacent to the proposed development and as such a condition should be attached to any grant of permission requiring details of how the development insulated against noise in accordance with the relevant British Standard.. Due to the above the following condition should be attached to any consent granted. An Air Quality Assessment has been submitted which examines the impact of this development for both the operational and construction phases of this development. The assessment criteria and model outputs have been verified against air pollution monitoring results provided by DDC. The impact of road traffic has been assessed and whilst the development is within the outer boundary of the declared Air Quality Management Area the modelling results show that air pollution levels for future residents will be within the published National Air Quality Objectives and as such are considered to be 'not significant'. Environmental Protection are in agreement with the conclusions of the report. For the

construction phase the report considers the impact of the demolition process of existing buildings and the construction impact of the development on existing residential receptors in the area. The report highlights that dust during the above, with suitable mitigation, will be insignificant. Whilst the conclusions of the report are accepted, it is essential that any construction management plan includes a separate section that provides clear mitigation measures to control dust emissions for the demolition/construction phase.

Waste Services

Flats depending on the amount of properties in each block will vary approx. 180litres of refuse per flat, 55litres of recycling for tins, glass & plastics, 55 litres for paper & card recycling & outside food caddy, 7 litre kitchen caddy for each property, majority of bins for flats would be communal bins.

KCC SUDS – Initial response received 14 July 2020:

Holding objection until further information is submitted for our approval.

The drainage strategy excludes the use of infiltration suds due to perceived shallow ground water level as well as space restrictions, constraints that we appreciate will limit the use of infiltration suds due to the urban location of the proposed development. We note that the southern building is of flat roof, which presents opportunities for green roof suds system. We would recommend that the applicant utilises opportunities presented by flat roofs to implement a sustainable drainage for the development. The post development discharge proposes a betterment of the existing brownfield discharge. We recommend that the applicant submits detailed calculations of greenfield runoff rates as well as the existing brownfield runoff rates to facilitate our comparison with the proposed discharge rate. Notwithstanding the above recommendations, we have the following comments regarding the current drainage proposals. The total area of the site is approximately 500m². Table 4.2 of the drainage report indicates that the impermeable area accounted for in the design of suds system is 200m². The indicative drainage layout suggests the southern building drains unattenuated into the existing surface water network. We recommend that the applicant produces an impermeable area plan contributing to any suds features This plan should be such that it can be read in conjunction with any hydraulic calculations.

Subsequent response received 19th August 2020:

The applicant has provided further information including calculations for greenfield runoff rates and brownfield runoff rates for the site. KCC note the brownfield and greenfield rates for the site. We agree that the greenfield runoff rates will not be achievable for the proposed development. Our Drainage and Planning Policy states that “Small sites are associated with low greenfield runoff rates. Given advances in technology and design of flow controls, it is now possible to achieve controlled flow rates of 2 l/s. This should be considered the minimum rate to be set for small sites, unless agreed with KCC”. KCC would prefer that the matter in relation to the green roof is resolved before they provide final consultation as it has a direct impact on the drainage strategy; however if DDC has a particular priority for this building and has a determined position on the provision of a green roof we may consider conditions if that is felt to be an efficient way forward.

Subsequent response received 3^d June 2021:

No further comments

Southern Water – Initial comments received 16th June 2020:

Whilst its exact position will need to be determined, the site lies over an existing sewer. Southern Water will not accept the development being constructed over the sewer. It may be possible to divert the sewer, at the developers expense, and a condition is recommended to require full details of how this would be achieved. Southern Water's investigations indicate that their network does have capacity to accommodate foul flows from the development. A formal application would need to be made to connect to this system. The disposal of surface water should be in accordance with the hierarchy in Building Regulations (infiltration as a first preference, to a watercourse as a second preference and to a sewer where the first two options are not practicable). A condition is recommended requiring full details of both foul and surface water drainage details to be submitted for approval.

Subsequent comments received 17th June 2021:

The comments in our response dated 16/06/2020 remain unchanged and valid for the amended details.

NHS – The development will have implications on the delivery of general practice service which will require mitigation through a financial contribution of £18,432 towards the refurbishment and/or extension of the existing Pencester Surgery, Whitecliffs Medical Centre, St James' Surgery and Buckland Medical Practice.

KCC Contributions – The development would increase the demand for infrastructure for which there is currently insufficient capacity as such the following contributions are sought: £15,890 towards the expansion of Dover Grammar School for Girls; £456.18 towards adult learning at Dover Adult Education Centre; £1,899.50 towards youth services at for the Dover Youth Service; £1,608.05 towards Dover Library; £4,259.52 towards Social Care within the District; and £2,688.88 towards increasing the capacity of the Dover Household Waste and Recycling Centre. It is also requested that the dwellings be built as Wheelchair Accessible and Adaptable dwellings in accordance with Building Regulations and that the dwellings are provided with high speed fibre optic broadband.

Kent Police – *Initial response received 18 June 2020:*

To date Kent Police have received no application for Secure By Design. They cannot recommend approval until details are provided regarding boundary treatments, ground floor window defences, safe storage of bicycles, details of refuse storage areas, details of external doorsets, details of mail delivery, use of access control systems within the building and site security during construction. Concern is raised that the lack of parking may lead to conflict.

Subsequent response received 21st June 2021:

The recent amendments have addressed the previous comments, albeit they are unable to ascertain how mail delivery will be organised, how access will be managed and whether there will be defensive treatments outside ground floor bedroom windows. Subject to these matters, the Police raise no objection to the approval of the planning application.

The Dover Society – *Initial comment received 19th June 2020:*

Strongly oppose the development. It is of paramount importance that the integrity of the Western Heights Conservation Area and Scheduled Monument is not affected by

developments on adjoining land. The site also overlooks the Wellington Dock which is a listed building and the Waterloo Crescent Conservation Area. It is considered that the development would adversely affect the settings of these assets and the historic skyline. The development would also harm the setting of the Listed Unitarian Church which would be blocked off by the development. 3D views should be provided to show the scheme. Comments are made specifically responding to the Design and Access Statement, which include: the development is not transformative and would not blend in; the development would be visible from Dover Castle; the Castle is an iconic gateway location, not this site; car parking is needed; the development would be out of keeping; supporting visuals are inaccurate; and impact on the Church. Important information is missing from the application. Flats would overlook each other. The development would have archaeological impacts.

Subsequent comment received 22nd June 2021:

Object. Objections were set out in previous letter. 3D images are needed to assess the development. The development is too large and overbearing and would not be sympathetic to neighbouring buildings, in particular the Unitarian Chapel or the Maritime Building.

Dover Chamber of Commerce – Support

The grade II listed Unitarian Church and other heritage assets in the area play a vital role in the celebration of Dover's past as well as attracting visitors and tourists to nourish our current and future economic wellbeing. If the development were to impinge on these assets, there would be good reason to oppose the application; however, the existing site is dilapidated and it is not envisaged that the development would adversely effect the visual appeal of the neighbourhood. The environmental impacts of the development are almost uniformly positive. There would be the loss of a Category C tree, but the development would favour physical exercise, reduce energy consumption and champion cycling. The site is close to the railway station. The developer is looking to futureproof the development. The office space will provide home-working opportunities. The best interests of the Dover District are surely served by reducing unemployment and backing initiatives that assist inward investment and create sustainable jobs- local unemployment in the district (6.3%) is nearly double that of Tonbridge & Malling (3.2%) and significantly above the UK average (5.1%). The existing site is an abandoned eyesore. The construction of a splendid new building that attracts environmentally-sensitive residents who will doubtlessly be keen to shop locally in our High Street and at the new St James Place retail park can only bring benefits to the district at large.

Dover Town Council – *Initial response received 14th July 2020 :*

Neutral

Subsequent response received 21 June 2021:

Object. The site is one of significance and is flanked by the listed Unitarian Chapel and the distinctive Maritime Building, but the design of the proposed development neither reflects these architectural styles nor complements them. The proposal looms over them inappropriately with excessive density of build providing little or no quality of amenity for would-be residents no outdoor space, no landscaping, inadequate parking, etc. In addition, the site is adjacent to the Western Heights, the Wellington Dock and visible to the castle and the main trunk road. Such a site demands enhancement of the skyline and town, and the proposed development fails in every respect.

Public Representations –

56 letters of objection have been received, raising the following points:

- Visual obstruction to more architecturally pleasing buildings
- The area is deprived
- The population should not be increased in this area
- Loss of views
- There wouldn't be enough car parking for the development
- Overlooking
- The building would be unattractive and unsympathetic to the character of the area
- The building is too large/tall
- Noise and disturbance
- Additional traffic
- Concern that the development will not be managed properly
- The development could undermine the history of the town
- The development would overwhelm Adrian Street/the neighbourhood
- Impact on access to the Grade II Listed Unitarian Church and other heritage assets
- Pedestrian access would be compromised
- Impact on highway planting
- The development would be impacted by noise
- Refuse storage
- The site has potential to be of significant archaeological interest
- Poor air quality in the area
- Loss of light
- Impacts during construction. A construction management plan should be required
- Loss of car parking
- Concern as to who will occupy the development
- The development would not provide children's play space
- The use of glass would increase temperatures

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

- There is a lack of quality housing in Dover
- There is a need for housing in Dover
- This is a pivotal location for development
- There are lots of car parks nearby
- The loss of the existing dilapidated building would be welcome
- Investment and regeneration should be welcomed
- The development would enhance the perception of Dover to visitors
- The existing site has given rise to anti-social behaviour
- Additional footfall to the town centre
- Boost to the local economy
- Car parking is not needed in this location
- The development could kickstart development in Dover
- This is a brownfield site

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

- 1.1 The site lies within the settlement confines of Dover at the junction of the A20 and the A256/York Street. To the north west of the site is Adrian Street. The A20 is at a lower level than Adrian Street, with the building constructed into the slope. The car park is also raised above the level the A20 and the A256/York Street. To the north of the site is the Grade II listed Unitarian Church.
- 1.2 The site comprises two parcels of land separated by an alleyway. The larger of the two parcels currently contains the former nightclub Club Karma, which is a flat roofed 2-3 storey mid to late C20th building. The smaller half of the site comprises a private car park which is tarmacked. Around this part of the site is some soft landscaping which is not within the site boundary. It is understood that this landscaping is maintained by KCC.
- 1.3 The application proposes the erection of two detached buildings. One on the site of the nightclub, which would be demolished, and one on the car park. The buildings would be between 3 and 6 storeys in height, varying as a result of the slope of the site and the height of the building reducing towards the north. The buildings would provide 29 flats comprising 15 1-bed units, 12 2-bed units and 2 3-bed units. The buildings would be finished in red brick and white render together with glass curtain walls. Glazed balconies would be provided to some of the flats. At ground floor level would be a small office.

2. **Main Issues**

2.1 The main issues are:

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

Assessment

Principle of Development

- 2.2 The site lies within the settlement confines of Dover and, as such, the principle of the development is acceptable, being in accordance with Dover Core Strategy Policy DM1. Moreover, the NPPF supports a positive approach to the delivery of housing to meet the needs of the district. The NPPF also recognises that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites. It is therefore concluded that the development is positively supported by the NPPF.
- 2.3 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.

- 2.4 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.
- 2.5 It is considered that policies DM1 and DM11 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%).
- 2.6 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 within the settlement confines and the development therefore accords with Policy DM1.
- 2.7 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 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 Dover and would be able to reach these facilities by more sustainable forms of transport, including walking and cycling. The site is located close to public transport links.
- 2.8 Policy DM1 is out-of-date. Whilst DM11 is, to a degree, in tension with the NPPF it is not considered to be out-of-date. Given how critical DM1 is to the assessment of the application, it is considered that the basket of 'most important policies' is out of date and the 'tilted balance' described at paragraph

11 (d) of the NPPF is engaged. Impact on archaeology can be a reason for disengaging the tilted balance; however, for the reasons set out later in this report it is not considered that this is that case for this application as the impacts on archaeology can be mitigated.

Economic Impact

- 2.9 An important element of the case for the development is its regenerative benefits. Principally, the site lies in a prominent position, close to and visible from the A20 which is the principle route into and out of Dover and the ferry terminal. As such, the site contributes towards 'the impression of Dover' of the many thousands of people travelling to and through the town. At present, the existing building does little to contribute to, rather it detracts from, the attractiveness of Dover in this visually prominent location. Therefore, the redevelopment of the site has the potential to enhance the character and appearance of the area and to enhance the setting of the busy A20 and the wider perception of Dover. In addition to having a critical role in the visual impression of the town for those passing through, the site is also at an important junction between the cruise terminal, marina and beach, which have seen significant investment in recent years, and the town centre, which has also benefitted from the St James' development in recent years and is the subject of town centre regeneration funding bids. The dilapidated state of the building currently provides an unwelcoming view for those wishing to move between the waterfront areas and the town. Finally, the development would also bring more people close to the town centre, which would be likely to provide some, albeit limited, additional activity and footfall to the town centre. Regard should be had to these benefits in the assessment of the application.

Character, Appearance and Heritage

- 2.10 Regard must be had for how the development would impact upon the heritage assets which are within the vicinity of the site, and their settings, having regard for the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 'Act'). Section 66(1) of the Act states that, 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.' As such, it is necessary to have 'special regard' for whether the development would preserve the listed buildings in the vicinity and their settings. Section 72(1) of the same Act, requires that 'special attention' is given to the desirability of preserving or enhancing the character or appearance of a conservation area. Additionally, the NPPF requires that regard must be had for whether the development would harm the significance of both designated and non-designated heritage assets and, where harm is identified (either substantial or less than substantial), consider whether this harm is outweighed by public benefits.
- 2.11 There are a number of heritage assets in the vicinity of the site. To the north of the site is the Unitarian Church, which is Grade II listed. The list description reads:

"Dated 1819. Architect Thomas Read. An irregular octagon in shape. 2 storeys yellow brick with 4 brick pilasters, Slate roof and wide bracket cornice. The front elevation has a pediment set in brick arcading with a round window in its tympanum, 1 large Venetian window under tile

pediment and the other windows are round-headed sashes. Single round-headed doorcase approached up a flight of steps having a cast iron handrail. Adjoining to the north side is a building of 2 storeys and 1 window which contains the Vestry”.

Views of the Castle and Western Heights can also be gained from around the site. The broad area of the castle and the Western Heights are Scheduled Monuments.

- 2.12 The site lies in a prominent position, close to and visible from the A20 which is the principle route into and out of Dover and the ferry terminal. As such, the site contributes towards ‘the impression of Dover’ of the many thousands of people travelling to and through the town. At present, the existing building, which is architecturally insignificant and in a very poor state of disrepair, does little to contribute to the attractiveness of Dover in this visually prominent location. Therefore, the redevelopment of the site has the potential to enhance the character and appearance of the area and to enhance the setting of the busy A20 and the wider perception of Dover.
- 2.13 The proposed buildings would be up to six storeys in height, although their heights would vary due to the changing land levels and staggered northern elevation of the eastern building. The upper storey to the western block would, in part, be set in from the main elevations of the building (and be finished in a different material) to reduce its prominence and perceptibility in certain views from the surrounding area. The eastern building, which addresses the corner of the A20 and York Street, steps down to four storeys to its north to provide balconies.
- 2.14 It is important to recognise that the application has been significantly amended since it was first submitted, following a Design Review process. Whilst the overall scale and form is broadly the same, significant changes have been made to the elevational treatment of the buildings, to refine and simplify the materials used and the fenestration design. It was acknowledged at the outset that this part of Dover doesn’t have a strong unifying character, with the buildings being of differing scales, displaying varied architectural styles, and used for a mixture of uses. The area contains some two and two and half storey dwellings, blocks of flats which are between 3 and 5 storeys in height and commercial buildings up to 6 storeys in height. The area also contains a number of public buildings, such as the Unitarian Church, the Maritime Union Building and the Dover Discovery Centre.
- 2.15 Shortly after the application was submitted, a Design Review Process was initiated. A Design Review is a review of a planning application by a panel of experts who have specialisms in fields associated with the application in hand. In this instance, the review was carried out by Design South East and comprised a panel of architects and planners with specialisms in architectural design, the historic environment and achieving good design where viability is constrained. Due to initial concerns with the scheme, whilst the panel considered the scheme holistically, they focused on the scale and massing of the building and whether the architectural design is appropriate to its context, with particular attention being paid to the developments impact on the Unitarian Church (responding to the concerns of the heritage team). The panel listened to presentations from the council and from the applicant before asking questions and debating the merits of the scheme.
- 2.16 The panel concluded that:

“a sustainable, high quality development in this location could offer a very positive opportunity for investment and regeneration in Dover. The site is complex with a changing topography, high visibility from key views and boundaries that meet a range of urban conditions and landmark building forms. The formulation of a clear design approach to the site presents many challenges but does provide the opportunity for a new ‘gateway’ building at a key junction within the town. This scheme requires greater strategic consideration of massing, visibility, local routes and the public realm, to elevate the proposal in order that it achieve the potential of the site and the wider aspirations for Dover. A bolder, clearer architectural approach should be considered to better respond to the constrained site and contextual landmark buildings. The need for more careful consideration of development in a constrained site is evidenced in elevation by excessive areas of solid and diminutive openings which reinforce the encroached position of the building. A simpler yet more appropriate response could be made to enliven building elevations and streetscape, whilst improving project viability and the quality of life for residents. Greater consideration is needed of entry points, architectural form and detailing, and the treatments of outdoor spaces to ensure building provides the quality that such a visible location demands”.

- 2.17 A series of seven recommendations were made. Some of the recommendations related to the need to take a step back and re-evaluate the constraints and opportunities of the site and provide 3D views of the scheme to better understand how the development would be experienced in context. However, the panel also considered that: the historic enclosure of the space around the Church is a key design generator and that the enclosure of the Church is well-reasoned; the building should be architecturally bolder, by using simpler, more refined forms to provide an appropriate setting to adjacent landmark buildings; greater consideration should be given to pedestrian routes and spaces around the buildings; elevations should be refined to eliminate excessive areas of blank walls (particularly at street level); and the use of brick is appropriate in context, although some horizontal banding has merit.
- 2.18 Following the Design Review, officers met with the applicant over the course of several months to firstly identify important viewpoints and then to discuss how the scheme should be amended to address the recommendations of the Design Review.
- 2.19 The Design Review did not specifically criticise the scale or height of the development, but did indicate that the scale of the building (amongst other things) should be tested through the production of 3D visuals. Such visuals have been produced. From the A20 to the south, the building would rise significantly above the height of the Maritime Union Building, creating a dominant presence locally. Whilst dominant, the Design Review suggested that the creation of a ‘Gateway’ building in this location could be positive. The building would be seen in the context of other large buildings which flank the A20, whilst the buildings design would visually ‘turn the corner’.
- 2.20 An important consideration regarding the height and scale of the building is how the building would respond to the heritage assets in the vicinity. Much attention has been paid to the buildings relationship with the Unitarian Church. The Design Review disagreed with the councils Heritage Team, concluding that providing some enclosure to the building could be positive, as the building had originally been enclosed by the tight street pattern which existed prior to

World War Two. Whilst acknowledging the views of the panel, the Heritage Team were concerned that the development would obscure the Church, which they felt would harm its significance. The 3D visuals which have been produced demonstrate that the wide views of the Church which can be gained from along the A20 would be reduced, due to the proposed building on the car park; however, the view opposite the front elevation of the Church (which is considered to be one of a number of key viewpoints) would be retained. Consequently, I am of the opinion that the applicant has demonstrated that the scheme would provide a reasonable enclosure of the Church, referencing historical street patterns, whilst largely retaining important views of the Church. Regard has also been had for how the development would affect longer views of the Western Heights and Dover Castle. Due to the building being situated within a relatively dense urban environment, which already contains several tall buildings, it is not considered that any key views would be interrupted, whilst the building would blend into views of the town from high points to the east and west. I am therefore of the view that the development, whilst impacting to a degree on the setting of the Church, causing less than substantial harm, would not cause significant harm to the settings of other listed buildings, Conservation Areas or Scheduled Monuments. The NPPF directs that the less than substantial harm to the setting of the Church requires that permission should be refused unless this harm is outweighed by public benefits.

- 2.21 The development seeks to build on the entirety of the site area, with little open space around the buildings, save for areas of balconies/patios outside of flats. The tight layout that this creates is not entirely alien to the character of Dover, with some of the more historic streets presenting such relationships elsewhere, however, it is not a strong characteristic of this part of Dover, where buildings are typically set back from the roads behind small gardens or shared spaces. There would be some visual relief provided by the small public spaces around the building but it is considered that overall, the relationship lacks generosity of space. This counts against the scheme. In particular, strong concerns have been raised both by your officers and the Design Review panel regarding the development's tight relationship with the alleyway which would be retained between the two buildings, as it is felt that this could become an uninviting and dark passage for pedestrians (and could attract anti-social behaviour). Efforts were made to bring this alleyway into the development site, to either remove the path or amend the scheme to better respond to the path. However, after exploring legal routes to acquisition and discussing the matter with the landowner (KCC) and councillors, the applicant confirmed that they were unwilling to acquire the land due to the time and financial costs which would be required, particularly against the backdrop of already tenuous viability. This is a missed opportunity to provide a more holistic redevelopment of this important corner site, albeit it is acknowledged that pursuing the acquisition could jeopardise the delivery of the development. The architect has instead sought to amend the treatment of the buildings which would front onto the alleyway to provide natural surveillance, light and a more attractive route. The ground floor of the eastern building would present a glazed atrium and main access doors to the alleyway, whilst the solid walls of the building would be set at 45 degrees to the alleyway to provide some visual relief. The ground floor of the western building would be half glazed at ground floor level to again reduce the starkness of the building to passers-by. It is not considered that these design changes are ideal, as they would not overcome the relatively narrow alleyway being enclosed between two tall buildings; however, they would provide some mitigation.

- 2.22 The building has been designed in a modern style, with large glazed openings, particularly to the corner facing towards the junction of the A20 and York Street. In terms of its design, it is considered that the building would be overtly modern in the street scene. Whilst such an approach could, in some circumstances, be inappropriate, it is considered that in this location this approach is correct due to the lack of a strong prevailing architectural style in the area. The building is located between different styles of building - the Georgian classicism of the Unitarian Church, late C19th and early C20th terraced housing, the early to mid C20th Maritime Union Building and more austere mid-century residential blocks. Buildings in the area are constructed of a mixture of materials; however, a mixture of brick (either red or yellow) and render is most common. The Design Review advocated the use of brick, but accepted that horizontal banding could add interest. The scheme has been refined to provide a clearer use of materials, with red brick being prevalent. Interest has been added through the use of textured brickwork, with intermittent courses of protruding and recessed brickwork. To break up elevations and provide focus to the corner of the building, white render is proposed. It is considered that this limited use of render positively references the use of white painted render which is used in the vicinity, where it can be found accenting windows, to the lower floors of buildings and in bands to delineate string courses and cornices. It's considered that conditions should be attached to any grant of permission requiring samples of the materials, details of the decorative brickwork and details of the more intricate parts of the building (such as balcony detailing and windows) as, due to the relatively simplicity of the design the quality of the finished appearance will largely be dependent upon the attention to detail. However, subject to conditions to ensure that these details are carefully considered, it is concluded that the architectural design and use of materials would not appear out of place and would provide a building of interest to the streetscape of Dover.
- 2.23 The site offers limited opportunities for landscaping, with the building taking up much of the site area. However, the ground floor plan does allow some limited opportunity for quality hard and soft landscaping. I do not consider that a significant number of trees could be provided, but the outdoor areas could be designed to provide lower level planting, and perhaps small trees, in containers. A condition is recommended requiring full details of hard and soft landscaping to be submitted for approval.
- 2.24 The development would have a significant impact on the area, both in terms of the localised views from Adrian Street and the alleyway between the two buildings and in wider views along the A20 and elsewhere. The building would be a substantial addition to the town and is in a prominent location. It therefore requires careful consideration as to whether this is the right development in the right place. As set out above, the site is constrained, both physically and financially, and this has resulted in a scheme which is also constrained, causing harm to the setting of the Unitarian Church and lacking generosity of space around the building. However, the amended design of the building would sit more comfortably within its urban context and its architecture would reference the local area. The existing site is considered to detract from the character of the area and the image of Dover and this must be taken into account. The applicant has sought to work with officers to make amendments where possible, but has demonstrated that some concerns could not be overcome due to the limitations of the site, not least its precarious viability. This application is before members as it is considered that no further substantive amendments to the scheme can be achieved due to the need to balance the viability and deliverability of the scheme against the quality of the

design that can be achieved. This is a very balanced assessment, but it is concluded that, whilst not ideal, the development would provide an overall enhancement to the character and quality of the area.

Impact on Residential Amenity

- 2.25 The site lies to the north of Maritime House, to the north east of properties on Snargate Street and to the south east of residential properties on Adrian Street.
- 2.26 There is no residential use of Maritime House directly to the south of the site and, consequently, the development would not result in the loss of residential amenity to this property.
- 2.27 The residential properties to the south west are approximately 36m from the site. Due to the proposed building being to the north east, being built into the slope and due to the top floor being set in from the edge of the building by approximately 9m, whilst the building would rise significantly above the height of the properties on Snargate Street, it is not considered that an unacceptable loss of light or sense of enclosure would be caused. In terms of overlooking, the south western elevation of the proposed building would contain windows whilst flat 29 would have a balcony, which would all allow views towards the properties on Snargate Street. However, given the separation distance, it is not considered that overlooking would be unacceptable. I am also mindful that No.'s 168 to 172 Snargate Street has a blank side elevation facing the site and there is relatively dense vegetation to the rear of the building.
- 2.28 Consequently, the only dwellings which have the potential to be adversely affected by the development lie to the northern side of Adrian Street, in particular 10-20 Adrian Street and 22 Adrian Street. In order to fully assess the impacts on these properties, the applicant submitted a Daylight and Sunlight Assessment, which utilises BRE guidance and a model of the development and its surroundings to assess the impact of the development on neighbouring windows, gardens and open spaces. The development has been amended since the Assessment was carried out; however, the scale and form of the building is essentially unchanged and, as such, I take the view that the Assessment remains reliable.
- 2.29 10-20 Adrian Street is set at a higher level than the application site and is raised above the level of Adrian Street. It is also set in from the corner of Adrian Street and Chapel Place, such that many of the windows within the building do not face directly towards the application site, which is around 13.5m away. The Daylight and Sunlight Assessment identifies that six windows within 10-20 wouldn't pass the Vertical Sky Component test of the BRE guidance; however, the guidance does allow for mitigating factors when this is the case. In this instance, the majority of these windows fail as a result of being overhung by balconies, whilst one of the rooms served by one of the windows is also served by a window which passes the test. Applying the mitigation advocated by BRE, no rooms would be unacceptably impacted. Likewise, all windows with the exception of one pass the BRE daylight test and, the failing window fails due to the balcony overhang. Whilst some windows within 10-20 Adrian Street would have a reduction in light reaching them, which does count against the development, it is not considered that any would be impacted to such a degree that it would warrant the refusal of the application. Turning to sense of enclosure, the proposed building would represent a significant change in the street which would inevitably cause a

greater sense of enclosure than is felt at present. That said, the building would be around 13.5m away from 10-20. Again, it is considered that a degree of enclosure would be felt by the residents of 10-20, but the relationship between the building would not be uncommon and is not considered to be so harmful as to warrant refusal. Finally, and for similar reasons as above, some interlooming between the existing and proposed flats would be caused, being separated by around 13.5m. However, this interlooming would be across Adrian Street and it is not considered that overlooking between properties across a public road is uncommon and would not, in my view, be unacceptable.

- 2.30 22 Adrian Street is set higher up the slope of Adrian Street, around 18.5m from the western corner of the proposed development. Due to the proposed building to the east of No.22, the presence of the building would only have a limited impact on the enclosure of the dwelling and sunlight reaching the dwelling. The Daylight and Sunlight Assessment demonstrates that all of the windows within 22 Adrian Street (and its neighbours to the west) pass the BRE tests and, consequently, would not be unacceptably impacted by the development. Some windows and a balcony within the development would permit views towards No.22. However, these views would be angled, at a distance in excess of 18.5m and would be across Adrian Street towards the front elevation of No.22. Consequently, it is not considered that an unacceptable degree of overlooking would be caused.
- 2.31 For the above reasons, I am satisfied that the development would not cause an unacceptable impact on the living conditions of neighbouring properties in terms of loss of light, sense of enclosure or overlooking.
- 2.32 The construction phase has the potential to cause unacceptable impacts on the living conditions of neighbours. Consequently, Environmental Health have recommended that, should permission be granted, a condition be attached requiring that a Construction Management Plan be submitted for approval. Subject to such a condition, it is considered that impacts from this phase could be suitably mitigated.
- 2.33 Turning to the living conditions of future occupiers, the one bedroom flats would range in size between 44sqm and 63sqm, whilst the two bedroom units would range in size between 63sqm and 77.4sqm. The three bed units would be generously sized, up to 96sqm. The council do not have adopted minimum flat sizes; however, the flat sizes broadly align with the Nationally Described Space Standards (albeit these should not be relied upon). It is noted that the two blocks would be relatively close together, separated by the alleyway between the buildings (approximately 4m). This results in windows/balconies which are close to each other. Whilst this would lead to a degree of interlooming between flats, the applicant has attempted to reduce this by angling the eastern building away from the western building. Additionally, the majority of the windows which would be overlooked are secondary windows or located around the corner of the building, such that overlooking would be limited. This is not an ideal scenario and counts against the scheme; however, on balance it is not considered that this is so bad as to warrant the refusal of the application. Given the sizes of the flats, the floor to ceiling heights and the amount of glazing, it is considered that the standard of amenity to future occupiers is acceptable. A dedicated refuse store is provided at ground floor level.

Impact on Local Highway Network

- 2.34 The existing site is formed of two areas. The first contains a former nightclub which has been vacant for some time and is now in a state of disrepair following a fire. The second area comprises an area of hardstanding which has been used for car parking. This second area was formerly owned by DDC, but was sold a couple of years ago to the applicant, so is now in private ownership. The proposal is for 29 dwellings comprising 15 1-bed units, 12 2-bed units and 2 3-bed units. No car parking is proposed.
- 2.35 Policy DM13 of the Core Strategy requires developments to provide sufficient car parking, having regard for the scale of the development and its location. DM13 does, however, acknowledge that car parking provision should be design-led. The site is considered to be in a sustainable town centre location, being close to facilities and services, commercial uses and public transport connections. In such locations, Table 1.1 of the Core Strategy advises that dwellings should be provided with a maximum of one car parking space per dwelling, whilst visitor parking can be accommodated within public car parks. However, footnote 1 of Table 1.1 advises that within Town Centre locations reduced or even nil provision is encouraged in support of demand management and the most efficient use of land.
- 2.36 The development does not propose car parking spaces. This has given rise to objection from third parties, who are concerned about the impact this could have on on-street car parking in Adrian Street and the surrounding roads. KCC have, however, confirmed that this is a location where they would support nil parking provision. The site is considered to be in location where occupants could easily access all of their day to day needs by more sustainable forms of transport (walking, cycling, buses and trains), which is to be encouraged where possible to facilitate a move towards carbon reduction. Whilst the lack of car parking provision would be likely to disincentivise potential purchasers who wish to drive (who may instead choose a location where parking provision meets their needs), it is acknowledged that some of the future residents wishing to drive may purchase the flats despite the lack of parking availability. On street parking is limited, albeit there are local car parks close by which, for the vast majority of the time, have spare capacity. Consequently, it is concluded that the site is capable of accommodating car free development, in accordance with the government's objectives to promote sustainable transport and make efficient use of land. It is important to clarify that the provision of additional car parking would further erode the viability of the scheme, as parking spaces do not significantly increase sales values and require significant floor space.
- 2.37 A large secure area at ground floor level would be provided for cycle parking, although the area has not been set out to show how cycles could be stored (the applicant has advised that 58 spaces could be accommodated). The area would, however, be of sufficient size to accommodate one cycle space per bedroom in accordance with KCC guidance. This is especially important given that occupants would be more reliant on more sustainable forms of transport such as cycling. Given the uncertainty as to the detail of cycle storage provision, it is considered that a condition should be attached to require full details of cycle provision.
- 2.38 KCC have advised that Adrian Street and Chapel Place have on-street bays/double yellow line restrictions along one side and single yellow line restrictions along the other, but are not wide enough to accommodate cars parked on both sides without encroachment onto the footway. Consequently,

concern is raised that residents of the proposed flats could chose to park on the road overnight (outside the restricted times when it is possible to park) and park partly on the footway in order to leave sufficient carriageway width, rather than use the public car park further away from the site. KCC have suggested that the proposals should therefore include changing the single yellow lines to double yellow lines in Adrian Street and Chapel Place to prevent this situation arising. The amended plans have not shown such double yellow lines, which is regrettable. However, I am satisfied that this can be addressed by way of a Grampian-style condition, requiring that the applicant to submit a plan showing the double yellow lines and ensure that that are provided, prior to the commencement of the development.

Archaeology

- 2.39 The NPPF, at paragraph 184, states that heritage assets are “an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”. Paragraph 189 of the framework goes on to describe how in determining a planning application Local Planning Authorities should require applicants to describe the significance of any heritage assets affected by a scheme. For sites, such as this, with an archaeological interest, it explains that developers should be required to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 2.40 This site is in a very archaeological sensitive location. Dover, generally, is known to have been an important site for archaeology across a range of periods of history, with the Dover District Heritage Strategy stating “Dover’s urban archaeology is as complex and substantial as any other historic town or city in the country including London”.
- 2.41 The site itself is close to a number of important above ground sites and known below ground remains. The Dover Bronze Age Boat was found in deeply buried sediments around 100m to the east of the site (with the application site being on the western edge of the estuary within which the boat was found). There is evidence of prehistoric activity along the western edge of the estuary, including at the site of the Unitarian Church, as well as evidence of Late Neolithic, Bronze Age and Iron Age occupation in the vicinity of the site. The Roman Navy had a major base at Dover, the fort being around 50m from the site. The application site is within an area just outside of the gates of the fort within the civilian settlement (vicus). Investigations on the site in the 1950s demonstrated the presence of intact Roman building remains of some status, including substantial walls, opus-signinum floors and plastered walls. Anglo Saxon and Early Medieval archaeology is also known in the vicinity and by the Medieval period the town was protected by a defensive wall circuit. The application site lies to the south west corner of the wall – just inside Snar Gate and close to the possible site of Adrian’s Gate/Upwall Gate. A section of the medieval town wall was observed around 35m to the south-east of the application site under the former York Street roundabout. During clearance work following Second World War bombing, a medieval garderobe was found on the site, terraced into the hill between Adrian Street and Snargate Street. The garderobe had been inserted into the earlier Roman building and consisted of a pair of parallel barrel-vaulted chambers connected by twin arches supported on a central column. It is possible that this garderobe was associated with Upwall Gate (Adrian Gate) and that potentially the line of the town’s medieval wall crosses the application site. The alleyway between the

two sites follows the line of a narrow post-Medieval street between Snargate Street and Adrians Street. As can be seen from this potted history, the site and the immediate surrounding area has been in occupation since at least the late Neolithic period and has played host to important periods in history.

- 2.42 This site has the potential to contain significant archaeological remains, possibly including remains associated with a medieval garderobe and a Roman building. If well-preserved Roman and medieval remains survive at the site, then these could be of a level of importance such that the starting point in any discussion on the site's redevelopment revolves around the need to preserve archaeological remains in-situ (i.e. archaeological remains might be present of a level of significance whereby footnote 63 of the NPPF applies).
- 2.43 Since the Second World War the area has changes considerably, with bomb damage and C20th urban renewal sweeping away the earlier buildings. The applicant had made a case that the redevelopment of the site would have likely resulted in the loss of any intact archaeology below ground (in part due to the existing and former buildings being below natural ground level or having basements). However, KCC have advised that the evidence for this is not clear and does not support such a conclusion, instead being of the view that there is a possibility that significant archaeological remains, including remains associated with a high-status Roman building, could be present within the site. Given the topographical context of the site, archaeological remains could survive below the existing building as archaeological levels, and thus the level of any more recent truncation, are unlikely to be uniform across the site. Due to the potential significance of such archaeology, KCC advised that field evaluations would be required to properly understand the significance of any remains and that, in their view, this should be carried out in advance of the application being determined, so that it can be understood how the development would affect those remains. Any surviving archaeological remains are unlikely to be buried at great depth. This means that the development as currently illustrated could have a substantial impact on any archaeology within the proposed building's footprint and this has the potential to result in the total loss of nationally important archaeology. Were archaeological works carried out prior to the determination of the application, should archaeology requiring preservation in situ be identified which would be unacceptably impacted by the development proposed, the scheme could then be amended to avoid, reduce or mitigate those impacts.
- 2.44 The applicant understandably had concerns regarding the need for pre-determination archaeological investigations to take place. Whilst KCC accept that large-scale trenching will not be achievable, they had suggested that smaller trenching or test pitting could be carried out, potentially including by hand in the building (a practice which is not uncommon in urban areas). However, the majority of the site is currently occupied by a fire damaged building, the safe access to which is very limited. It would therefore be extremely difficult to undertake archaeological works within the footprint of the building (where the most important remains would likely be, should they have survived) without first demolishing the building. This would itself be costly, time consuming, and require consideration of archaeology, contamination and unexploded ordinance. Alternatives have therefore been explored, with the applicant, KCC and your officers meeting to try to agree a mutually acceptable means of preserving archaeology whilst not stymieing the development.
- 2.45 During the meeting between the parties it was agreed that, whilst there is uncertainty as to whether significant archaeology will remain (as is usually the

case with archaeology) and the precise level at which any archaeology would be present, there is a reasonable chance that some archaeology may survive below the foundations of the existing building and that, based on the height and scale of the proposed building, there is a reasonable likelihood that the necessary foundations would be deeper than the existing foundation (and thus affect any remaining archaeology). I therefore concur with KCC that there is need for archaeological evaluation works to inform design levels. Subsequently, it is then necessary to consider the timing of, and mechanism for securing, archaeological evaluation to take place. In particular, whether a solution can be found which ensures that important remains can be preserved.

- 2.46 S106 Agreements have been used elsewhere which require that after permission is granted, but before the development takes place, archaeological investigations take place. By allowing these works to take place after permission has been approved, developers have more surety that a development can take place and are therefore in a better position to secure funding. The mechanism as used elsewhere requires that, should archaeology be encountered which could not be retained within the development (for example if the slab level of foundations would be below the level of the archaeology), the applicant must come back to amend the application such that it is compatible with the archaeology to be preserved.
- 2.47 However, further consideration has been given to whether a S106 is the correct mechanism to secure archaeological investigations and prevent a development which could cause unacceptable damage to archaeological remains from being constructed. In particular, whether a Grampian-style condition (one which is negatively worded to prohibit the development until a specified action has been taken) would be more appropriate to secure the protection of any archaeology. Conditions are as robust as S106 Agreements and the council could enforce against breaches by injunction (and other means) if necessary. Conditions should only be used where they pass the six tests for conditions (that they are: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects). Conditions should only be used where there is a prospect of the action in question being performed within the time-limit imposed by the permission. Conditions should also not unreasonably impact on the deliverability of a development.
- 2.48 A condition could be worded to require, in chronological order: an archaeological programme and demolition method statement (including details of any unexploded ordinance work) to be submitted for approval prior to the demolition of the building; demolition of the building; following demolition the programme of archaeological works to be carried out and the findings submitted for approval (including details of how any important archaeology will be preserved in situ, if required); details of foundation design (including any other below ground infrastructure required) to be submitted for approval; and, only if the previous phases demonstrate that the development would not unacceptably impact any archaeological remains present, allow the development to be carried out. Should the development prove to be incompatible with archaeological remains which need to be preserved in situ, the development could not go ahead. The applicant could then, should they wish to do so, submit an application to amend the scheme. Such a condition would be onerous on the applicant, as it would mean that until the archaeological works were complete there would be uncertainty as to whether the development could go ahead. However, it would mean that this application

could be approved, without this costly work having to be carried out in advance.

- 2.49 In terms of whether the condition passes the tests, it is considered that it is necessary to ensure that the development does not cause an unacceptable impact on buried archaeology, given that nationally significant remains have been encountered nearby and given that there is a prospect of remains being present on this site, having regard for the provisions within Chapter 16 of the NPPF. Clearly, preserving archaeology is relevant to planning and relevant to the development. Such a condition could be worded so as to be enforceable and precise. The question as to whether the condition would be reasonable in all other respects links to whether there is a prospect of the action in question being performed within the time-limit imposed by the permission and whether the condition would unreasonably impact on the deliverability of a development. It is considered that there is more than a mere prospect of the condition being complied with within the time limit of the application, as the archaeological works could be carried out well within this time and it is possible that either there will not be archaeological remains on the site which require preservation in situ or a foundation design can be designed which ensures any such remains can be preserved in situ. There is a prospect that the requirements of the condition could impact on the delivery of the development. However, it is not considered that such an impact would be unreasonable, given that the condition is seeking to permit a development which would otherwise be hindered and that it seeks to ensure that archaeology is preserved, in accordance with the aims and objectives of the NPPF, whilst there is a reasonable prospect that the condition would not impact on the delivery of the scheme. For these reasons, I am of the opinion that a strongly worded condition unlocks the ability to permit the development, whilst ensuring that the site is fully investigated and safeguarded before the buildings are constructed, with construction prevented if the preservation of the remains cannot be secured.

Flood Risk and Drainage

- 2.50 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, the development should be made safe without increasing the flood risk elsewhere. The site lies within Flood Risk Zone 1 which has the lowest risk of flooding. As such the development does not need to pass the sequential or exceptions tests. Notwithstanding this, it is still necessary to consider how surface and foul water will drain from the site to ensure that the risk of flooding is not increased elsewhere.
- 2.51 The existing site is predominantly non-permeable, being largely covered by the existing building or hardstandings. As such, the development would be unlikely to significantly increase surface water run-off. However, it would be appropriate to ensure that the proposed development is served by suitable surface water drainage, in accordance with the clear requirement in the NPPF that major development should incorporate sustainable drainage systems except in exceptional circumstances (paragraph 165). The development would also need to be served by adequate foul drainage infrastructure which avoids increasing the risk of flooding on site or elsewhere.
- 2.52 Given that the development would occupy the entire footprint of the site, it is not considered that infiltration is feasible due to shallow ground water level and space restrictions. Likewise, it is not possible to discharge surface water

to a watercourse. The submitted Surface Water Management Strategy advises that the development will instead control the flow of surface water discharging into the public sewer on Adrian Street using a flow control device which would reduce flows as much as practicable. The Lead Local Flood Authority have advised that, whilst there may have been opportunities to explore green roofs, the post development discharge proposes a betterment of the existing brownfield discharge. Given that the viability of the development as proposed is in question, it is highly unlikely that the scheme could bare the additional expense of a green roof system. Consequently, whilst the development would not be able to replicate greenfield drainage conditions, the surface water flows from the scheme would be no worse than they are at present, due to the existing building and car park. It is recommended that, should permission be granted, a condition should be attached requiring full details of the surface water drainage system to be submitted for approval, prior to the commencement of the development.

2.53 Southern Water have confirmed that there is capacity in the network to accommodate the foul water flows from the development. They have recommended that an informative be added to any grant of permission advising the applicants that a formal application will need to be submitted to them and what the charging arrangements for connections will be. Southern Water have requested that a condition be attached regarding details for foul water drainage. I take the view that a condition, requiring details of on site drainage and, if necessary, any off site connection and reinforcement, together with a timetable for the works, would be necessary to ensure that drainage is provided in advance of occupations. Such a condition would also be important to ensure that the drainage design is cognisant of potential archaeological constraints on site.

2.54 Southern Water have confirmed that an existing public combined sewer runs under the site (the submitted plan indicates that this runs within or parallel to the alleyway between the two parts of the site, with the exact position to be determined). Southern Water would not allow building over this sewer, but have advised that it might be possible to divert the sewer, provided this would not result in a loss of hydraulic capacity. Such a diversion would need to be paid for by the applicant. Southern Water have requested that, should planning permission be granted, a condition be attached requiring that the applicant submit details of the measures which will be taken to divert the sewer. Given that such a condition could require the diversion to take place beyond the application site, it is considered that the condition would need to require the details to be submitted prior to the commencement of the development. The condition should also identify the precise location of the existing sewer and any others which could be affected.

Contamination, Air Quality and Noise

2.55 The application has been supported by a Contaminated Land Assessment and Air Quality Assessment, which have been reviewed by the councils Environmental Health team.

2.56 Environmental Health have accepted the conclusions of The Contaminated Land Assessment, which concludes that, having considered previous uses of the site and the surrounding area, there is a negligible risk to human health or controlled waters and that no further investigative measures are required. However, the report does conclude that, due to suspected Second World War bomb damage to the eastern part of the site it would be prudent to carry out

an unexploded ordnance risk assessment prior to construction work commencing, which should be secured by condition. It is also recommended that a condition be attached to require that should any evidence of contamination be found during development the development should cease until it is investigated and resolved.

- 2.57 The site lies within the outer boundary of the declared Air Quality Management Area and, as such, particular attention must be paid to how the development would impact on and be impacted by air quality. The Air Quality Assessment submitted with the application assesses the impact of the development during its operational and construction phases. Regard has been had for construction impacts, including dust from the demolition of existing buildings and construction on existing residential receptors in the area. It is concluded that, subject to a construction management plan being secured by condition, which must include clear mitigation measures to control dust emissions for the demolition and construction phases, fugitive dust will be insignificant. Environmental Health have verified the assessment criteria and model outputs with the submitted assessment against DDC's own data and have concluded that the air pollution levels for future residents will be within the published National Air Quality Objectives and as such are considered to be 'not significant'.
- 2.58 Whilst the application has not been supported by a noise survey, Environmental Health have noted that due to the site location, close to the junction of the A20 and York Street/A256, the site is within a relatively high noise environment. Consequently, whilst they have not requested that a noise survey be submitted, Environmental Health have requested that a condition be attached to any grant of permission requiring that details be submitted to demonstrate that the development will be insulated against noise in accordance with the relevant British Standard (for example through double or triple glazed windows, increased insulation to the walls etc., as required).

Contributions

- 2.59 Core Strategy Policy DM5 requires that for schemes of more than 15 dwellings an on-site provision of affordable housing, amounting to 30% of the dwellings proposed, will be required. The policy also acknowledges that the exact amount of affordable housing, or financial contribution, to be delivered from any scheme will be determined by economic viability, having regard to individual site and market conditions.
- 2.60 Policy CP6 requires that development which generates demand for addition infrastructure will only be permitted if the necessary infrastructure is either in place or where it can be provided. Policy DM27 requires that developments contribute towards the provision of open space to meet the needs which will be generated by the development. A request has been received from the NHS who have requested £18,432 for increasing the capacity of GP services in Dover. In addition, KCC have requested contributions of: £15,890 towards the expansion of Dover Grammar School for Girls; £456.18 towards adult learning at Dover Adult Education Centre; £1,899.50 towards youth services at for the Dover Youth Service; £1,608.05 towards Dover Library; £4,259.52 towards Social Care within the District; and £2,688.88 towards increasing the capacity of the Dover Household Waste and Recycling Centre
- 2.61 The application has been supported by a viability statement which seeks to demonstrate that the development cannot support the provision of affordable

housing or contributions. In accordance with the Council's normal practice, and having regard for the Affordable Housing SPD, the Council appointed an independent viability consultant to review the applicant's report.

- 2.62 The Council's viability consultant questioned the assumptions made within the submitted statement and sensitivity tested the applicant's viability appraisal. They considered that all of the assumptions made by the applicants were reasonable, with two minor exceptions. Firstly, the Council's consultants considered that the applicants projected build costs were slightly high, at £1,625/sqm, whereas they considered that build costs of £1,552 were more appropriate. Secondly, the applicants had valued the site at a nominal value of £1. Based on similar prices for previously developed land in Dover, the Council's consultants considered the Benchmark Land Value should be £425,600. The viability assessment, adjusted for the variations made by the Council's consultant, shows a residual land value of £237,783 which is £187,817 below the Benchmark Land Value. The consultant has concluded that the development is not viable and could not support S106 contributions or affordable housing contributions. They have, however, recommended that a review mechanism should be written into the S106 so that, should the development become sufficiently viable such that it could support contributions, a level of contributions could be secured.
- 2.63 Consequently, the viability assessor is of the opinion that the scheme is not sufficiently viable to support contributions. This is caused by the relatively low sales values achievable in the local area set against relatively high build costs. In accordance with Policy DM5, which acknowledges that "the exact amount of affordable housing, or financial contribution, to be delivered from any specific scheme will be determined by economic viability having regard to individual site and market conditions", and having regard for paragraph 64 of the NPPF and the advice contained within the Planning Practice Guidance, it is considered that the application has demonstrated that it would not be reasonable in this instance to require affordable housing or contributions.
- 2.64 Notwithstanding the conclusions of the Council's viability consultant, who agrees that the scheme cannot support contributions, it is noted that the evidence for the new Local Plan (The Local Plan Whole Viability Study) has concluded that within the Dover Urban Area it is not viable to provide affordable housing. The draft Local Plan has proceeded on this basis, which supports the applicant's assumption that its viability is significantly constrained.

Ecology

- 2.65 The application has been supported by a Preliminary Ecological Appraisal to assess whether the site is likely to support any protected or notable species. The site comprises a building in a state of severe disrepair and an open car park. There is some vegetation around the car park and some ivy growth on the building. The appraisal concludes that the site is unlikely to support any protected or notable species, albeit it recommends that the ivy is removed outside of the breeding bird season. Having regard for Natural England's Standing Advice and having visited the site, I concur that the site does not contain any features likely to provide habitat for protected or notable species. A condition will be attached to any grant of permission requiring details of ecological enhancements to be provided, albeit it is accepted that these will likely be limited, given the location of the site and the characteristics of the development.

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

- 2.66 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.
- 2.67 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.
- 2.68 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.
- 2.69 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.
- 2.70 For proposed housing developments in excess of 14 dwellings (such as this application) the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance to a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education). The applicant has agreed to fund this mitigation, which will be secured by a S106.
- 2.71 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Other Matters

- 2.72 It is relevant to note that, whilst the council can demonstrate a five year housing land supply, the presumption in favour of sustainable development (set out at paragraph 11 of the NPPF), or 'tilted balance', is engaged as the council's development plan is out-of-date. Moreover, whilst the development would impact upon archaeology (insofar as pre-commencement archaeological works would be required), it is not considered that this, or anything else in the application, triggers the tilted balance to be disengaged as the policies relevant to those considerations do not provide "a clear reason for refusing development proposed" (having regard for footnote 6). Therefore,

determination must consider the presumption in favour of sustainable development (the 'tilted balance').

3. **Conclusion**

- 3.1 The site is located within the settlement confines of Dover, which is identified as the 'major focus for development in the District; suitable for the largest scale developments'. The principle of the development is therefore supported.
- 3.2 The development would impact upon the settings of designated heritage assets. The councils Heritage Team had raised concerns regarding the increased enclosure of the Unitarian Church; however, the Design Review found no harm in this respect, instead taking the view that this replicated the close-knit character of the area prior to C20th war damage and urban renewal projects. The development will inevitably cause a significant change to the character and appearance of this part of Dover. As set out in this report, this change is not universally positive, with aspects of the scheme considered to be regrettable. It has been concluded that less than substantial harm would be caused to the setting of the Unitarian Church. This harm indicates that permission should be refused unless the public benefits of the scheme outweigh the harm. The development would also cause some, albeit limited, impact on the residential amenity currently enjoyed by neighbouring properties. However, it is considered that the regeneration of this site and the economic benefits this regeneration would bring to the town, by removing a building which detracts from the visual amenity of this important site and paints a poor image of Dover to those coming into, and passing through, Dover and replacing it with a building which, following amendments, possesses some architectural quality, together with the provision of dwellings in a highly sustainable location, provides benefits which weigh in favour of the development.
- 3.3 Archaeology is also an important consideration in the assessment of this application. KCC have articulated well the potential importance of this site to the understanding of Dover's past. Their advice was that the archaeological evaluation was needed prior to permission being granted on the basis that there may be a need for preservation in situ which could impact on whether the application scheme is deliverable. Following further meetings, it was suggested that it may be possible to circumvent this by way of a S016 Agreement which prevents the development for going ahead if preservation in situ would not be possible, albeit it is now considered that this would be better achieved through conditions.
- 3.4 In your officers opinion, this is a very balanced assessment. To a degree, the assessment of the application will turn on members judgement of the quality of the building proposed and whether this justifies such a significant intervention in the townscape to secure the regeneration of this site. However, in your officers opinion the benefits of this development narrowly outweigh the harm (including the less than substantial harm to the setting of the Church). This view takes into account the benefits of securing development in a prominent area in need of urban regeneration and where the evidence points to very fine margins with respect to achieving scheme viability. for schemes such as this. Subject to conditions and a S106 Agreement, it is considered that the development is acceptable in all other material respects. Whilst this is a very balanced case, it is recommended that permission be granted.

g) **Recommendation**

- I SUBJECT TO a S106 agreement to secure habitat mitigation (including a review mechanism to test viability) PERMISSION BE GRANTED subject to conditions to include:-
- (1) standard time limits, (2) approved plans, (3) samples of materials, (4) full details of window frames, glazing bars and window reveals, (5) details of fine detailing to the building, including but not limited to details of copings, railings to balconies, expansion joints, recessed brickwork, rainwater goods, fascia's, eaves etc. (6) details of any plant, vents satellite dishes or antennas to be installed (7) details of hard and soft landscaping, (8) details for the provision of double yellow lines to Adrian Street, (9) details of cycle parking, (10) details of suitable facilities for refuse storage, (11) archaeological field evaluation, submission of post evaluation archaeological report including as necessary the details for the preservation in situ of archaeological remains and details of foundation design, (12) scheme for foul water drainage, including details of the precise alignment of the public sewer and measures to safeguard it or divert it, as necessary, together with a timetable for implementation, (13) details of surface water drainage, including a timetable for its implementation, (14) sound insulation scheme, (15) measures to address unsuspected contaminated, (16) unexploded ordinance, (17) ecological enhancements, and (18) construction management plan.
- II Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions and the S106 agreement, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Luke Blaskett

PLANNING COMMITTEE – 15 JULY 2021

PLANNING APPEALS 2020/21 AND FIRST QUARTER 2021/22

1. There were 21 planning appeals determined during 2020/21 and 12 in Q1 of 2021/22; 33 in total. Members have been issued with the full decisions.

2. A breakdown is at section 3 below.

Of the 33 planning appeal applications, 2 were decided by Planning Committee, 2 related to appeals against non-determination with the remaining 29 determined under delegated powers.

Our results for 2020/21 show that of those applications that did go the Inspectorate, 29% were lost. The average loss rate nationally is about 30%.

The National Performance Indicator which assesses the ‘quality of decisions’ measures the percentage of local authority decisions that are then subsequently overturned at appeal. The Government advise that the threshold for designating an authority as ‘underperforming’ includes if 10% of decisions are overturned at Appeal. This is assessed over a retrospective 2 year period and applies the threshold separately to decisions on Major and Non-Major applications. With no appeals on major applications during 2020/21 (or 2021/22 Q1), our performance on appeals for Major applications is within target. That said, given the low number of Major applications generally, it will not take too many allowed appeals to risk reaching the designation threshold.

3. Appeal Data

3.1

Appeal data for all decisions

Year to date	All appeals	Appeals Dismissed	Appeals Upheld	% Upheld
Q1 (20/21)	4	3	1	19%
Q2 (20/21)	2	1	1	50%
Q3 (20/21)	9	6	3	33%
Q4 (20/21)	6	5	1	17%
Total	21	15	6	29%
Q1 (21/22)	12	8	4	33%

3.2 Appeal data for Government P.I

This table looks at the percentage appeals allowed as a % of all applications decided.

2020/21	Major Applications Decided	Appeals Upheld		% Upheld
Q1&2	23	0		0%
Q3&4	18	0		0%
Total	41	0		0%
	Non-Major Apps Decided			
Q1&2	341	2		<1%
Q3&4	434	4		<1%
Total	775	6		<1%

4. More Detailed Points

Of the 33 cases appealed, 12 related to new residential development, with 8 being for householder development:

- Of the 12 residential schemes, only 1 was allowed on appeal/upheld.
- 7 of these schemes were for small-medium scale residential development within existing settlements/built-up areas where site specific issues such as design, impact on neighbours/living conditions etc. were the main considerations. The 1 allowed appeal was for a site within the urban area where no harm was identified by the Inspector. The remaining 5 dismissed appeals were for development outside existing urban areas/settlements, where the harm associated with the impact on the countryside, lack of alternative travel to the car (e.g. a lack of a regular bus service) and an absence of facilities to meet day-to-day needs were judged to outweigh any scheme benefits.
- Of the 10 allowed appeals, these related to a mix of scenarios, although it's noteworthy that 3 were against conditions imposed on householder planning permissions. While aimed at safeguarding the amenity of neighbours etc, by restricting the right of an applicant to do works (e.g. under permitted development), these were viewed by the relevant Inspectors as unnecessary.

Peter Wallace
 Planning and Development Manager

July 2021