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Application: DOV/14/01211

Land Off, Ark Lane

Deal

CT14 6PX

TR 3757:5333



- a) **DOV/14/01211 - Demolition of existing building and erection of 14 town houses, estate road, garages, parking areas and landscaping - Land off Ark Lane, Deal**

Reason for report: Level of public interest.

- b) **Summary of Recommendation**

Planning Permission be Granted.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS)

- Policy DM1 states that development will not be permitted outside the confines unless specifically justified by other plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- Policy DM2 seeks to protect land last in use for employment purposes subject to: land or buildings are no longer viable or appropriate for employment use.
- Policy DM5 seeks a contribution towards the provision of affordable housing for developments between 5 and 14 houses.
- Policy DM13 sets out parking standards and states that parking should be a design led approach based upon characteristics of the area.
- CP2 identifies the requirement for allocating land for houses and employment.
- CP6 requires infrastructure to be in place or provision for it to be provided to meet the demands generated by the development

Land Allocations Local Plan

- Policy DM27 - Sets out standards for providing open space to meet additional need generated by residential development of 5 or more dwellings

National Planning Policy Framework

- Paragraph 7 sets out 3 dimensions to sustainable development – the economic, social and environmental role which should not be undertaken in isolation.
- Paragraph 14 states that at its heart there is a presumption in favour of sustainable development. Where the development plan is absent, silent or out of date this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
- Paragraph 49 housing applications should be considered in the context of a presumption in favour of sustainable development. Relevant policies for the supply of housing should be considered out of date if a 5 year supply of deliverable housing sites cannot be demonstrated.
- Paragraph 109 Planning system should contribute to and enhance the natural and local environment by, inter alia, protecting and enhancing valued landscapes.

- Paragraph 128-136 LPAs should assess significance of any heritage asset which may be affected by a proposal. Where proposal would lead to less than substantial harm, harm should be weighed against public benefits of proposal. The more important the asset the greater the weight should be.

National Planning Practice Guidance

Introduced on 6 March 2014. Provides guidance on a number of planning issues and supplements advice in the NPPF. Detailed advice in respect of flooding and advice on the need for specific flood risk assessments for sites vulnerable to flooding.

Other Planning Documents

- Affordable Housing SPD.
- Kent Design Guide

d) **Relevant Planning History**

A number of applications relating to previous use of the site not relevant to this proposal.

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

Technical consultations

KCC Highways – No objections in principle bearing in mind previous use as factory and to minor amendments including footway radius at the entrance and to street bollards being set back 5.5 metres from Ark Lane. Both items have now been addressed.

Southern Water- No objections and confirmation from a capacity check that there is sufficient capacity in the network to accommodate the proposal. A formal application will be required to connect to the foul sewerage system. Details of future maintenance of SUDs should be provided.

Environment Agency – Accepts findings in the Flood Risk Assessment(FRA) but points out that the site remains in a Flood zone 3a area and could be affected in an event which exceeds the design flood event. Supports flood resilience measures in the FRA as well as a condition that no sleeping accommodation should be on ground floor. Would also wish to see finished floor levels no greater than 300mm above existing levels.

KCC Fire & Rescue Service – No objections and from submitted plans it appears access to the site for fire safety reasons is adequate.

KCC Archaeology – No pre determination studies required at this stage but would wish to see archaeological condition imposed which would require some trial trenching post determination.

Environmental Protection Officer - Accepts conclusions of contamination study and that some sampling will be carried out. No objections subject to a condition requiring further details in relation to that.

Third Party Responses

Deal Town Council- Currently objects but would withdraw objection if 1) brick wall between Outdowns and the site is erected before development takes place and 2) a Traffic Management Plan is imposed to ensure no conflict with local school. 3) No development to take place until necessary infrastructure is available to service the development and implemented prior to occupation. (NB – Applicant has written to Town Council in response to the above but no further response currently received from the Town Council)

19 letters of objections for reasons which may be summarised as follows:

*A wall should be erected between the site and Outdowns as originally intended. A number of representations advised that they would have no objections if this was secured.

*Traffic concerns along Ark Lane/College Road

*There is a lot of wildlife on the site as a result of mature trees which should be retained.

*Loss of light/overshadowing/privacy to houses in College Road

*3 storey properties are too high

*Concern about impact of construction activities for local schoolchildren travelling to and from school.

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

1.1 The site is located on the northern side of Ark Lane and comprises a rectangular shaped area of land 0.347 hectares in area. It is presently occupied by a vacant low lying factory building which was previously used for the manufacture of sports clothing, with the remainder of the site taken up with hardstanding. It sits down slightly below the level of Ark Road itself and there is an existing vehicular access onto that road. Either side of the access are rows of mature trees on a splayed grass frontage on land which belongs to Kent County Council.

1.2 To the north and partly beyond the western boundary of the site is a recently constructed residential development known as Outdowns, which includes a Doctor's surgery. These comprise primarily 3 storey town houses. Beyond the remainder of the western boundary is a car park serving a 2 storey residential block of flats known as Sandown Place. To the east are 2 and 3 storey properties which front College Road which are mostly Grade II listed.

1.3 The proposal is to erect 14 x 3 storey town houses which will be grouped around a central access road, either fronting on to that road or at right angles to it. The design draws references from the adjoining Outdowns development but introduces its own character through the use of strong gable elements. A palette of materials is proposed using references from materials elsewhere in the town, which includes stock bricks on the ground floor, cladding above and with slate roofs. Parking is based on Kent Design standards with a total of 29 spaces being provided together with cycle provision within rear garden sheds. The road is intended to remain private but is designed to adopted standards and will have an automated barrier system to prevent unauthorised access or parking. It will be a shared surface for vehicles and pedestrians with vehicle speeds being controlled through laybys and planting. Landscaping will include tree planting along the main

road as well as the edges of the site. Two of the frontage trees will be removed with all others being retained but will be cut back where they currently overhang the site.

- 1.4 The original design intention was to create a public access at the rear of the site with Outdowns to improve pedestrian permeability between the two sites. However, following extensive consultation with local residents who objected strongly to the idea, it was dropped and a solid rear boundary wall will now be constructed.

2. Main Issues

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

- The principle of the residential use
- Design and layout
- Flooding Issues
- The impact upon residential amenity
- Impact upon heritage assets
- Other Matters
- Development contributions

3 Assessment

Principle of the residential use

- 3.1 Notwithstanding the site's urban location and vacant use, it was not included in the Council's Land Allocations Local Plan (LALP) primarily because it is located in Flood Zone 3a i.e. it is vulnerable to flooding, and there were other sites identified which did not have that constraint. That situation was accepted by the Inspector conducting an examination into the LALP and the Plan was adopted by the Council in January 2015 without its inclusion. However since that time, the Council's Annual Monitoring report has identified that there is a shortage in the 5 year supply, largely because of a deficit in on site starts and therefore annual completions. In such circumstances, as referred to above the NPPF advises that relevant policies for housing should not be considered up to date and that proposals should be considered in the context of a presumption in favour of residential development.
- 3.2 In that respect, the site lies wholly within the urban fabric of Deal and is surrounded by other residential development. It is close to local amenities and services including a primary school, community centre, the recently constructed Doctor's surgery and public playing fields. It is within walking or cycling distance to most of these and close to bus routes.
- 3.3 Evidence submitted with the application demonstrates that the former use caused problems in terms of large vehicles using the site, together with a number of noise complaints experienced by occupiers of nearby residential properties. The proposed residential use is therefore considered a more neighbourly form of development in that respect.

- 3.4 Notwithstanding the above, Policy DM2 of the Core Strategy seeks to protect employment land subject to exceptions if the land or building is no longer viable or appropriate for employment use. In that respect, evidence has been submitted showing previous attempts to market the site for employment or business activity which met with little success. In support of the current application, evidence from professional surveyors point to the availability of better suited accommodation elsewhere in the District, such as Discovery Park or Minter's Yard in north Deal, both of which are yet to be fully occupied. Additionally, the building itself is dated and not suited to current needs or standards. Having regard to that advice, the fact that the site is poorly located for an industrial use and has caused problems in the past, and the fact that a residential use is a better alternative use, officers consider that the exceptions in Policy DM2 are satisfied and that there is no objection in that respect.
- 3.5 In the light of the above, the proposal is considered to be acceptable in principle for residential development, notwithstanding the fact that it is not allocated specifically for that purpose, subject to there being no adverse impacts which would demonstrably outweigh those benefits. These issues are considered below.

Design & Layout

- 3.6 The layout proposes reusing the existing access on to Ark Lane with a central access road leading to two communal parking areas. The intention is that it will act as a 'home zone' with footpath and carriageway shared by pedestrians and vehicles but with the carriageway itself demarcated with bollards. High quality surfacing materials will be used including granite setts and bonded gravel. The combined design and use of materials will provide a sense of place to the development rather than being dominated by a conventional estate road. KCC has raised no objections to the proposed highway arrangements which will be constructed to adoptable standards although will remain private. Similarly no objections are raised to the rising bollard at the entry to the site which is designed to prevent any indiscriminate parking within the site (a problem being experienced by the adjoining site at Outdowns) and will be maintained as part of the overall maintenance of common areas.
- 3.7 The design is conceived to reflect a strong seaside defence wall on the ground floor, using reclaimed stock brickwork, with oversailing residential accommodation above on three floors. A three storey development is considered appropriate in context with the surrounding area comprising a mixture of two and three storeys. The design makes reference to the adjoining development at Outdowns with the use of strong gable features, and will therefore be satisfactorily integrated within the surrounding area. Similarly, the use of materials such as stock brickwork, slate cladding and slate roofs are all sympathetic to the local area whilst at the same time will be used in a contemporary way, particularly the slate clad elevations. Photovoltaic panels are proposed on the roofs although no specific details have been supplied at this stage. A Code for Sustainable Homes Assessment indicates that a Code level 3 can be achieved, together with some elements of

Code 4. However, in April of this year, the Government have withdrawn the Code in the Deregulation Bill and therefore it is no longer appropriate to seek to ensure the standard is delivered through the planning system.

- 3.8 Parking will be in accordance with Kent standards which require a total of 28.5 spaces. 29 spaces will be provided in a mixture of garages and small parking courts. However, all spaces will be conveniently located to individual dwellings. Provision is also made for storage of 1 cycle space per dwelling, either in garages which will be constructed to 6 metres in length, or in sheds which are to be provided in each rear garden. Plans show that refuse vehicles can enter and turn on site in accordance with standards.
- 3.9 Rear garden areas are considered adequate in this urban location and all will be capable of accommodating refuse storage and washing lines in addition to garden sheds. However, given their relatively limited size officers would recommend that permitted development rights be removed having regard to the potential size of extensions which could be permitted without the need for planning permission.
- 3.10 As referred to earlier, most of the frontage trees will be maintained albeit cut back where they currently extend into the site, and will provide a mature and pleasant appearance to the entrance of the site. There will be additional tree planting along the proposed access road to provide balance for what will be an essentially hard landscaped area, together with further tree planting along rear boundaries.
- 3.11 In overall terms, officers consider that the proposed design and layout has been well considered and will provide a sensitive but contemporary addition to the urban fabric of the area.

Flooding Issues

- 3.12 The site is included within Flood Zone 3a on the Environment Agency's flood Map and therefore has a 1 in 100 year or greater annual probability of river flooding or 1 in 200 or greater annual probability of sea flooding. In this case it is the latter and to put it into context, a large part of the Deal urban area also falls into that same zone. Primarily for that reason, new flood defence infrastructure was recently completed in June 2014 along the Deal frontage. Together with a rock revetment at Sandown castle and new wave wall and new beach, coastal flood defence works now provide a 1 in 300 year standard of protection against coastal flooding and wave overtopping.
- 3.13 Because of the site's location, a full Flood Risk Assessment (FRA) was submitted. In accordance with national policy advice in the NPPF and National Practice Guidance, it is necessary for development in such areas to pass both the sequential and the exception test. The purpose of the former is to guide development to less vulnerable areas. However, as referred to above, that is difficult in the case of Deal given that most of the urban area lies within Flood Zone 3 and there are no obvious other sites within the town centre which pose less risk. The 3 allocated sites within the LALP are now committed and the remaining allocation relies heavily on windfall sites such as

the current proposal, coming forward. Given its sustainability advantages and other site specific advantages as noted above, it is considered to be acceptable from a site sequential point of view.

- 3.14 With regard to the exception test, the two key components are the wider sustainability benefits and the outcome of the specific flood risk assessment. The former has been dealt with above. The FRA notes that all sleeping accommodation will be at first floor level and that the finished floor levels will be 150mm above existing ground levels which would be sufficient for both actual risk events and residual risk events such as the new sea defences failing. The calculations were based on a numerical hydrodynamic flood model and have been accepted by the Environment Agency. However as a further precautionary measure, the Agency would prefer to see thresholds set at 300mm above ground level due to the risk of some overland flow. The applicants are reluctant to pursue that owing to design implications and potential impact upon amenity of adjoining properties. They are currently in discussions with the Agency on this point and officers will update members at the meeting.
- 3.15 In addition to the above, current surface water run off from the amount of hardstandings will be reduced through the provision of garden areas and the use of permeable surfacing leading to soakaways. Given the fact that it is a constrained urban location the opportunities for such items as ponds are impractical. The principle will be that soakaways will either be in private gardens in the form of a storm-cell crate construction with inspection points, and two further soakaways within the road area. Further details need to be clarified, including the need for future ongoing maintenance, but such measures can be secured through a planning condition.

Impact upon residential amenity

- 3.16 The two issues which have raised local concerns relate to the relationship of the site with the neighbouring development at Outdowns, and with properties in College Road to the east.
- 3.17 In terms of Outdowns, there seems to have been a perception that construction would be via that development which would clearly be undesirable. That seems to have stemmed from the fact that a section of boundary between Outdowns and the application site was finished as a timber fence rather than a wall as is the case with the adjoining section of boundary in that area. The applicant has confirmed that was not the intention and all construction traffic will access the site via the existing access from Ark Lane with the approval of Kent Highways. The applicant has also confirmed that the northern section of boundary wall will be completed at the same time as foundations are commenced on the site. Although some representations have requested that the wall be provided before any construction starts, officers consider that is unreasonable. A suitably worded condition for the wall to be constructed commensurate with foundations together with a further condition to prohibit any construction traffic from using Outdowns, is considered to be sufficient to safeguard the concerns.

- 3.18 A consequence of using Ark Lane is the potential impact upon the local school as children are arriving and departing. However the applicant has indicated that a Construction Management Plan (CMP) will be prepared which will include the following: no deliveries to the site will be carried out between 8.30 and 9.30 and 3.30 to 4.30 during school term week days; no construction or other access shall take place other than from Ark lane; details of construction compound to be provided; a direction to construction workers not to park in the adjoining Outdowns development. Details of the CMP can be secured through a suitable planning condition.
- 3.19 With regard to the potential impact upon properties in College Road, officers consider that the spacing between the elevations of the properties and those of College Road (as opposed to their gardens) will be for the most part in excess of 20 metres which is considered acceptable in this urban location. However, following concerns expressed about loss of sunlight the applicants were requested to carry out a sun path study. That study has been assessed against guidelines from the Building Research establishment which recommend that at least half a garden area should receive at least 2 hours of sunlight, or alternatively, an area which receives 2 hours of direct sunlight should not be reduced by more than 20%. The study demonstrates that for much of the year there will be no adverse impact but that the worst case would be during the autumnal equinox on No 17 College Road which would see a 12.8% reduction in sunlight. Whilst therefore there will be some minor impact, it will be less than guidelines recommended and therefore there would be no basis to oppose the scheme for that reason alone, particularly when weighed against other advantages.
- 3.20 Elsewhere within the development fenestration has been carefully sited to avoid direct overlooking of adjoining properties for the most part or where it does, separation distances are considered reasonable within this urban context. The one exception is a landing window at second floor level to Unit 8 on the eastern side of the site. It is recommended that this be obscure glazed which can be secured through condition

Impact upon Heritage Matters

- 3.21 Given the proximity of listed buildings the statutory test is to have special regard to the impact of any development and the desirability of preserving the listed buildings themselves, or their setting. In this instance it is only the latter which is a consideration.
- 3.22 The primary value of the terrace of listed buildings is the composition they make to the street scene in College Road where they present an attractive and unified appearance. At the rear and backing on to the site, their appearance is less attractive with rear projections and outbuildings in modest gardens. As referred to above, the development has been set well away from the common boundary with the College Road properties and there is good screening from several trees which will remain. Additionally, the design of the proposed scheme together with sensitive choice of materials which complements the yellow stock and slate roofs of the listed buildings is

a significant improvement visually compared to the relationship of the current building on the site to those properties in College Road. For these reasons, officers are satisfied that the setting will be preserved.

Other Matters

- 3.23 The applicant has been in detailed discussions with KCC Archaeology, and the latter is satisfied that there is no requirement for any prior evaluation. Investigation is likely to take the form of trial trenching across the site with any follow up work dependent upon the outcome of that. A suitable condition can secure the detailed specification required.
- 3.24 A detailed contamination report was carried out which concluded that there was a low risk of contamination on the site and there was no reason why it could not be developed for housing. Environmental Protection officers have accepted those conclusions but recommend a condition to ensure sampling is carried out and any contamination discovered following commencement of on site works can be suitably dealt with.
- 3.25 Southern Water has confirmed that there is sufficient capacity in the foul sewer to accommodate the development, which would be served by a different sewer to that of the adjoining Outdowns development. Additionally, surface water from the site currently drains into the foul sewer whereas the proposal intends that surface water will be disposed of via soakaways as referred to above, thus generating additional capacity. A formal requisition to Southern Water to connect to the existing system would be needed following any grant of permission and that Authority would approve technical details at that stage.

Development Contributions

- 3.26 In accordance with provisions in the NPPF and Development Plan Policy, the proposal would attract various contributions in order to mitigate the impact of the development. In that respect, such contributions need to comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010(as amended). Those regulations require that any contributions to be sought through either a S106 Agreement or Unilateral Undertaking need to satisfy 3 tests, namely: they must be necessary to make the development acceptable in planning terms, they must directly relate to the development, and must be fair and reasonable in scale and kind. As of 6th April 2015, there is also now a limit of 5 on the number of contributions that can be pooled for any particular project.
- 3.27 In response to the above, the applicant has submitted a draft Unilateral Undertaking which shows a combined amount of contributions totalling £242,231. This would be made up as set out below with trigger points within the Undertaking to ensure contributions are collected as the development proceeds on site.
- 3.28 A contribution of £193,000 as an off-site contribution to the District Council towards the provision of affordable housing. This is in

accordance with the Council's Addendum to its Supplementary Planning Document for affordable housing where a formula is applied for off-site contributions for developments of between 5-14 units. The Housing Manager has confirmed this is acceptable. In terms of open space, a further contribution of £8702 would be made to the District Council towards ongoing projects at North Deal playing fields. In that respect the Council is working closely with the North Deal Community Partnership to increase capacity on the playing fields and the contributions would be put towards current projects.

- 3.29 Kent County Council requested contributions of: £33,053 towards Deal Primary School; £6804 towards the new youth centre in Deal; £672 towards additional book stock in Deal library; £1067 towards adult social services; and £358 towards community learning and skills. Of these, the contributions towards Deal Primary school, the youth centre and the additional book stock for Deal library are considered to satisfy the statutory tests and do not exceed the number of pooled contributions. They are therefore included in the Unilateral Undertaking. However, the contributions requested for community learning and adult education are not considered directly related to this particular proposal as they are somewhat imprecise and could be used at a number of venues across the District. Accordingly they are not considered to satisfy the statutory tests and have therefore not been sought.
- 3.30 If members are mindful of accepting the recommendation to grant permission, it would only be issued subject to the satisfactory completion of the signed Undertaking which would then bind the current and future owners of the land.

Planning balance and conclusion

- 3.31 The NPPF advises that in the absence of an identified 5 year supply of housing, development proposals should be assessed against a presumption in favour of sustainable development. The NPPF also advises that the latter comprises three components, namely an economic, social and environmental role, all of which are mutually dependent.
- 3.32 From an economic perspective, the proposal will bring a redundant site back into beneficial use and will generate a significant number of jobs during the construction phase. In social terms, it will provide much needed family housing and in a wholly sustainable location close to local facilities and public transport. It will therefore also contribute towards healthier communities which is also an objective of the NPPF. From an environmental point of view, the proposal will result in an improvement to the existing site visually with a well considered design which will add to the quality of the urban fabric. A detailed flood risk assessment has demonstrated that there is a very low likelihood of flooding and that flood resilient measures will further reduce that risk. Surface water disposal will also be improved compared to the existing situation.
- 3.33 In the light of the above, the proposal is considered to satisfy the presumption in favour of sustainable development. In terms of site

specific issues, relevant standards are met for such issues as road layout and access configuration, parking provision and building relationships. Existing trees along the site frontage will also be maintained. There will be no adverse impact upon the setting of nearby heritage assets. Concerns about residential amenity have either been addressed through careful design or can be controlled through suitable conditions such as the need for a Construction Management Plan and to prevent any access from the adjoining Outdowns development. In officers' view and in line with advice within the NPPF, there are no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal. Accordingly, planning permission is recommended to be granted subject to the satisfactory completion of the Unilateral Undertaking and the conditions set out below.

g) **Recommendation**

I PERMISSION BE GRANTED subject to the following conditions:-

1) Standard time limit; 2) Development in accordance with approved plans; 3) Sampling for contamination and measures to control if found during development; 4) Archaeology – specification for evaluation by trial trenching; 5) Details of foul and surface water drainage together with ongoing maintenance requirements; 6) Samples of materials including surfacing materials; 7) Details of soft landscaping; 8) Protection measures for existing trees; 9) Access and estate road to be fully constructed before first occupation; 10) Details of rising bollard and future maintenance arrangements; 11) Parking spaces to be provided before first occupation and thereafter retained; 12) Removal of PD rights for garages and any extensions; 13) Obscure glazing to second floor window in east elevation of unit 8; 14) Sheds to be provided before first occupation; 15) Boundary fencing to be erected before first occupation; 16) section of northern boundary wall adjoining Outdowns to be completed before completion of first house foundation on site; 17) Construction Management Plan to include: Restriction on hours of deliveries to site 0830-0930 and 1430-1530 Mondays to Fridays during Primary School term time; no construction other than from Ark Lane; details of construction compound; details of wheel washing equipment; details of vehicle routing arrangements; no construction workers to park in adjoining Outdowns development; 18) Details of photo voltaic panels on roofs; 19) No permanent bedroom accommodation on ground floor; 20) Details of floor levels in accordance with Flood Risk Assessment; 21) Details of flood resilience measures in design of buildings; 22) Measures to prevent discharge of surface water onto highway.

II Powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and matters within the proposed Unilateral Undertaking, in accordance with issues set out in the report and as resolved by the Planning Committee.

Case Officer

Kim Bennett