

- a) **DOV/16/01328 - Outline application for the erection of up to 28 dwellings (30% affordable), creation of vehicular access (to include demolition of 14 Archers Court Road) - Land rear of Archers Court Road, Whitfield**

Reason for report - the number of third party contrary representations.

- b) **Summary of Recommendation**

Grant permission.

- c) **Planning Policies and Guidance**

Development Plan

The development plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act (2004) comprises the Dover District Council Core Strategy 2010, saved policy TR4 from the Dover District Local Plan 2002, and the Land Allocations Local Plan (2015). Decisions on planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise.

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

CP1 - Settlement hierarchy.

CP2- Provision of Jobs and Homes

CP4- Housing Quality, Mix Density and Design

CP6 - Infrastructure

DM1 - Settlement boundaries.

DM5 - Provision of affordable housing.

DM11 - Location of development and managing travel demand.

DM13 - Parking provision.

DM25 - Loss of Open Space.

Saved Dover District Local Plan (2002) policies

Policy TR4-A2 Safeguarding Area

Dover District Land Allocations Local Plan (2015)

DM27 - Providing open space.

"To meet any additional need generated by development, planning applications for residential development of five or more dwellings will be required to provide or contribute towards provision of open space, unless existing provision within the relevant accessibility standard has sufficient capacity to accommodate the additional demand. This applies to accessible green space, outdoor sports facilities, children's equipped play space and community gardens in accordance with the standards that

are contained in Table 1.2. Applications will also be required to demonstrate a minimum of 15 years maintenance of facilities. The need arising for other types of open space (operational cemeteries, European site mitigation and landscape mitigation) will be assessed on a development specific basis.

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

National Planning Policy Framework (NPPF) (2012)

Paragraph 7. Identifies the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles.

Paragraph 14. Presumption in favour of sustainable development for decision-taking.

Paragraph 17. Core planning principles... planning should...

- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- pro actively drive and support sustainable economic development to deliver the homes... and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations...

Paragraph 32-Development should only be prevented or refused on transport grounds where the cumulative impact is severe.

Paragraph 49. Housing applications should be considered in the context of the presumption in favour of sustainable development.

Paragraph 56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 61. ... planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 109 The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the wider benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible and preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability

Paragraph 118 When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. Where significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Development proposals where the primary objective is to conserve or enhance biodiversity should be permitted.

Opportunities to incorporate biodiversity in and around developments, should be encouraged and planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats

Affordable Housing Supplementary Planning Document (SPD)

The purpose of the SPD is to alert developers and landowners as early as possible to the scale and need for affordable housing and to inform that planning obligations will be sought to secure affordable housing in connection with residential schemes of 15 or more dwellings.

Whitfield Masterplan SPD

The Whitefield Masterplan SPD sets out a framework for how the expansion of Whitfield should be undertaken, developing principles set out in the Core Strategy. This application site lies outside but adjacent to the proposed area of expansion.

d) Relevant Planning History

DOV/13/00360 - Outline of up to 28 dwellings, construction of vehicular access including demolition of 14 Archers Court Road (Refused 21/01/2014). Appeal dismissed on highway safety and capacity grounds. Applicant's Appeal to High Court was successful and the matter was referred back to the Planning Inspectorate for determination. On 12th January 2016 the Inspector appointed under Appeal ref APP/X2220/A/14/2217154 dismissed the appeal on the grounds that the application would fail to protect local biodiversity and as such would be contrary to paragraphs 17, 109 and 118 of the NPPF. The Inspector considered the effect of the proposal on highway infrastructure and held it would not have a harmful effect on it and as such accords with paragraph 32 of the NPPF.

e) Consultee and Third Party Responses

DDC Principal Infrastructure Officer – No objections.

DDC Trees - No objections as the removal of the large amounts of dead and diseased trees will be beneficial. The majority of the felling of remaining trees lie towards the inner aspect of the site and should not cause an issue as a number of them are of poor value. According to the Arboricultural Impact Assessment there are plans to repopulate the loss of the dead and diseased trees.

DDC Housing Enabling - No comment

KCC Highways - Bearing in mind the comments made by the appeal Inspector in January this year on the impact of the previous identical development on the highway network, adequate visibility is available at the access, and the internal layout and associated parking can be dealt with through reserved matters. Accordingly, conditions should be attached including a Construction Management Plan, routing of construction-related vehicles and timing of HGV movements. Other conditions are sought requiring the provision and permanent retention of vehicle and cycle parking and turning facilities.

Environmental Health - No objections. The applicant submitted a new noise report and Environmental Health would not object subject to a proposed 4.5m acoustic fence/screen (sect. 8.5.3) being put in place.

In respect of Air Quality as well as earlier air quality assessments, a recent air quality survey was undertaken. Nitrogen dioxide and particulates PM10 from road traffic are not at levels whereby National Air Quality Objectives are likely to be breached, both without and with this development. It is confirmed that air pollution does not need to be considered further within this application.

Regarding contamination, the area of woodland has no apparent history of contaminative use. A condition is recommended requiring cessation of works should contamination be suspected or found and related conditions regarding risk assessments etc.

Highways England - No objection. Satisfied that on the basis of the information supplied, that trips generated would be of a level and distribution that would not materially affect the safety and/or operation of the Strategic Road Network.

DCC Head of Inward Investment - No comments to make

DCC Ecology - No objections in respect of reptiles, dormice and bats. There are no constraints to development. However, the use of inappropriate lighting may, however, adversely affect bat foraging and recommendations regarding bats and lighting in the bat survey should be conditioned.

KCC Archaeology - No comment

DCC- Housing Enabling Officer- No comment but Affordable housing required in accordance with Core Strategy policy DM5, Which is an on-site contribution of 30% (up to eight dwellings). The applicant has agreed, and proposed that these would be social rented dwellings.

Kent CC PIC- Request contributions for Secondary education of £2359.80 per house and £589.95 per flat, (Dover Christ Church School expansion. - agreed by applicant. Primary Education- £3324 per house or £831.00 per flat, (Green Park Primary School expansion).-agreed by the applicant
Library - contribution towards book stock (Dover Library), at £48.02 per dwelling.
Total - £1344.44 - agreed by applicant

Environment Agency - No objection to the proposed development as submitted subject to conditions being imposed with regard to potentially contaminated land and requirement to not implement drainage systems for infiltration of surface water without express written consent of the LPA

Canterbury and Coastal CCG (NHS) - No comments

Southern Water – Initially no objection subject to a condition requiring that construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water. Subsequently advised that a review of capacity, which would ultimately involve connecting to Sandwich Road, via the Newlands Road waste water pumping station, needs to be updated. A verbal update will be provided at the committee meeting.

Affinity Water Plc - No comments

Kent Fire and Rescue -No comment made.

PROW Officer - The Public Right of Way advisor notes that Public Right of Way ER54 runs along the southern part of the site. The location of the public footpath on the block plan does not concur with the definitive map. Concerns are raised that the development will directly affect public footpath ER54 and would therefore an objection is raised to the proposal as it stands. The objection would be withdrawn if the applicant indicates an intention to divert the path under the Town and Country Planning Act 1990. To enable this, the development, insofar as it affects the Public Right of Way, must not be started until such time as the Order necessary for its diversion has been confirmed. A further condition is sought requiring no development over the PROW until the confirmation of its diversion or extinguishment. It's advised that it would be beneficial to re-connect public footpath ER54 to the underpass at the A2 roundabout which would greatly improve access to local amenities (it currently does).

Whitfield Parish Council - The Parish Council object as the land is not suitable for development and is allocated as open space and safeguarded under Policy TR4. The development will adversely affect existing residents and will have unacceptable effect on the natural environment. There is inadequate infrastructure to support the development. The site is well used as an important amenity area and is well used for recreational purposes.

The development has attracted strong local opposition. The access road will enable overlooking, security issues, noise and nuisance to existing properties and gardens either side of the access road, resulting in loss of amenity for existing residents. The size and scale of the proposed properties will be unacceptable and affect amenity of property in Archer's Court Road, Courtland Avenue and Newlands.

This application is on a Greenfield site. Its proximity to woodland protected by TPOs has not been assessed for likely future pressure to fell protected trees, nor does the application state if any protected trees will be removed for the access road or for the development. There is no clear information on any requirement to clear trees and saplings not protected by the TPOs in the construction area - Our estimate is that 50 or more unprotected trees will have to be removed.

This land is ecologically important for wildlife and should not be developed in an area that is already losing much of the Greenfield land surrounding the Village to development under the Whitfield SPD. Future Residents of this development will suffer excessive noise from A2, too much for residential development. It is unacceptable to have development in an area that will be affected by constant noise to this extent.

Public representations - 12 letters of objection

- Cumulative impact of development in Area
- Pressure on local highway infrastructure
- Adverse impact on Highway Safety
- Adverse impact on biodiversity
- Loss of Trees subject to a Tree Preservation Order (TPO)
- Loss of Open Space
- Loss of Wooded Area
- Generation of noise and light pollution
- Proximity to existing properties would give rise to loss of privacy and overlooking

- Adverse health impacts due to traffic increase
- Scheme no different to what was refused planning permission and dismissed on appeal

f). The Site and Proposal

- 1.1 The site is a triangular parcel of land which lies between the rear of the residential properties off Archer's Court Road and the A2. The site is heavily overgrown and is subject to a Tree preservation Order (TPO NO. 8 1981). It is currently accessible via a public footpath (PROW ER54) running along the southern part of the site connecting the underpass on Whitfield Roundabout with Archer's Court Road and continuing through the field towards the A258. The site is immediately outside of the Whitfield Urban Expansion development site but within the urban settlement area of Dover. The site sits just below the level of the A2.
- 1.2. It is understood that the site once formed part of a caravan site but is now residual land from the road improvement works to the A2. Part of the site remains under the A2 safeguarding designation (Saved Policy TR4) of the Dover District Local Plan.
- 1.3. The proposal is for outline planning permission for 28 dwellings, 30% of which would be affordable dwellings. All matters are reserved except for access. The proposal would involve the demolition of 14 Archer's Court Road to facilitate the creation of a new vehicular access into the site with a turning head to serve the development.
- 1.4. The indicative plan shows an L shaped footprint of development with an amenity space in the centre. A green space and landscape buffer zone is shown to be incorporated. East of the site is a residential development dating from 1980s and 1990s/early 2000s.

2. Main Issues

- 2.1. The previous application under DOV/13/00360 was refused on the grounds that the local highway infrastructure did not have capacity to absorb additional traffic movements generated by the development, taking into account also the increased traffic that would be generated by other development using the highway network and other new developments.
- 2.2. The applicant lodged an appeal against this decision but the appeal was dismissed by the Inspector. This decision was successfully challenged in the High Court by the appellant and the matter was referred back to the Planning Inspectorate for determination.
- 2.3 On 13th January 2016, this appeal was dismissed (Ref. APP/X2220/A/14/2217154). In paragraph 4 of his decision letter, the Inspector considered the main issues to consider were the effect of the proposed development on the local highway infrastructure and its effect of local biodiversity.
- 2.4 The Inspector did not find that the proposal together with the impact of other developments would result in a severe cumulative impact on the local highway infrastructure. He advised that the LPA was unable to provide cogent evidence that there was insufficient capacity in the local highway network to accommodate a "relatively small development" which was supported by the Transport Statement and Technical Note submitted. Therefore the sole reason for refusal put forward by the LPA was overturned by the Inspector.

- 2.5 However, the Inspector found that there was a lack of sufficient information submitted meaning he could not be certain that the proposal would not result in significant harm to biodiversity as envisaged by paragraph 118 of the NPPF and consequently would fail to achieve one of the core planning principles in paragraph 17 of the NPPF namely conserving and enhancing the natural environment.
- 2.6 In this regard he concluded that the proposed development would fail to protect local biodiversity contrary to paragraph 109 of the NPPF.
- 2.7 The Inspector found in favour with regard to the matter such as provision of affordable housing and noted the proposal would provide a positive social and economic role but its failure on the environmental prong of paragraph 17 outweighed the benefits of the proposal and the appeal was dismissed.

3. **Assessment**

Principle of Development

- 3.1 Members will be aware that all decisions need to be taken in accordance with the development plan unless material considerations indicate otherwise. The key change since the appeal decision letter for the previous scheme (Ref. DOV/13/0360) is that the Council can now demonstrate a five year housing supply. As a consequence relevant policies of the development plan can be considered up to date and given full weight.

Housing Land Supply

- 3.2. One of the NPPF's key objectives is to deliver a wide choice of high quality homes that widens opportunities for home ownership and creates sustainable, inclusive and mixed communities. This objective is reflected in Policy CP4 which aims to ensure that the housing meets the needs of the present and future generations.
- 3.3 The Strategic Housing market Assessment (SHMA) identified a split demand for market housing based on the profile of projected newly formed households in the district. This application like its predecessor contains no details of the housing mix. Reference to the SHMA and justification for any proposed housing mix will need to be given at Reserved Matters stage should planning permission be granted.
- 3.4 With residential development proposals of 15 dwellings or more the LPA will seek the scheme to provide 30% affordable housing in home types that will address prioritized need. This reflects the NPPF's objective to set policies to meet identified affordable housing need. The application seeks to provide 30% affordable housing and this would be controlled by way of a legal agreement.

Highway Implications

- 3.5 KCC Highways raised no objections to the scheme. The scale and mix of development associated with this application does not depart from that of the previous scheme and therefore the scope of the assessment remains unchanged.
- 3.6. The Transport Statement shows the impact of the proposal on the junction with Archer's Court Road and Sandwich Road would not require mitigation to support an additional 28 dwellings.

- 3.7 Conditions are recommended by KCC Highways including the provision and maintenance of the visibility splays with no obstructions over 1 metre above carriageway level within the splays and the submission of a construction management plan.
- 3.8 The Inspector did not agree with the local planning authority that the proposal would have a severe cumulative impact on the local highway network. This current application is for the same quantum of development and is supported by the same evidence considered by the Planning Inspector when reaching his conclusion in January 2016.
- 3.9 DDLP Policy TR4 shows the land along the A2 is safeguarded for the widening of the A2. However the Highways England has confirmed there are no plans to undertake any road widening so no objection has been raised.

Ecology and Biodiversity

- 3.10 The Inspector in his decision letter dismissing the appeal against the previous scheme cited insufficient evidence, given the likelihood of protected species being present on the site
- 3.11 In line with Planning Practice Guidelines (PPG) an ecological survey will be required in advance of a planning decision if the type and location of development is such that the impact on biodiversity may be significant and the existing information lacking or inadequate.
- 3.12 The inspector also took into account the views of both parties and Circular 06/2005: Biodiversity and geological conservation. Surveys should not be required by condition except in exceptional circumstances, No such exceptional circumstances were presented to the Inspector who in the end dismissed the appeal due to the lack of information submitted in support of the proposal.
- 3.13 Bat, Dormouse and Reptile Surveys have been submitted in support of this scheme and the Council's Ecological advisor has noted that the surveys were undertaken by a competent ecological consultancy and no ecological constraints to development were found. However there will be a requirement for ecological protection measures by way of conditions attached to any grant of planning permission.
- 3.14 As the Ecological Officer is satisfied as to the quality of the surveys and has suggested conditions to mitigate any potentially adverse impacts on biodiversity, officers consider that the scheme is acceptable in ecological terms subject to the said conditions.

Planning Obligations

- 3.15 The applicant has submitted draft Heads of Terms in relation to obligations necessary to make the development acceptable in planning terms. The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) require that requests for development contributions of various kinds must comply with three specific legal tests:
1. Necessary,
 2. Related to the development, and
 3. Reasonably related in scale and kind

- 3.16 Policy CP6 sets out that development that generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either already in place or there is a reliable mechanism to ensure that it will be provided at the time it is needed. These tests have been duly applied in the context of this planning application and give rise to the following specific requirements. The proposed obligations are based on consultee responses and are as follows;
- 3.17 Affordable housing - in accordance with Core Strategy policy DM5, an on-site contribution of 30% (up to eight dwellings) is required. The applicant has agreed, and proposed that these would be social rented dwellings.
- 3.18 Secondary education - £2359.80 per house and £589.95 per flat, towards Dover Christ Church School expansion - agreed by applicant.
- 3.19 Primary Education- £3324 per house and £831.00 per flat, towards Green Park Primary School expansion- agreed by the applicant
- 3.20 Library - contribution towards book stock at Dover library, at £48.02 per dwelling. Total - £1344.44 - agreed by applicant.
- 3.21 Thanet Coast and Sandwich Bay SPA – contribution of £17.44 per one bed unit; £35.47 for a two bed unit; £53.21 for a three bed unit and £70.94 for a four bed unit.
- 3.22 Public Open Space - Within the submission of a reserved matters application a community space scheme to include a LEAP, a future management scheme for the Community space and the completion of the LEAP before occupation of any dwellings on site.

Public Right of Way.

- 3.23 The KCC Public Right of Way (PROW) advisor notes that Public Right of Way ER54 runs along the southern part of the site. The location of the public footpath on the block plan does not concur with the definitive map.
- 3.24 Concerns have been raised by KCC that the development will directly affect public footpath ER54. KCC advise that the public footpath should connect ER54 to the underpass at the roundabout which would greatly improve access to local amenities (it is already connected).
- 3.25 The KCC state that they would withdraw their objection if planning conditions are imposed which prohibit the commencement of development until such time as the Order necessary for its diversion has been confirmed. A further condition requiring no development to take place over the PROW until the confirmation of its diversion or extinguishment is also sought. In response to this, it is important to point out that the granting of planning permission does not grant the right to close, alter or build over a right of way in any way, even temporarily. It is a criminal offence to obstruct a right of way unless the necessary legal order has been made, confirmed and brought into effect. Furthermore, planning conditions should not be used to duplicate matters regulated under other legislation and for this reason it would be inappropriate for conditions to be used to seek compliance with a separate legal process relating to diversion (should this be necessary) of the PROW.
- 3.26 The communications provided by KCC PROW can be sent to the applicant as an informative giving them an opportunity to address the PROW in any reserved matters

application in full cognisance of their legal responsibilities to secure other approvals where required. The above said, it would be appropriate for any outline permission to include a condition confirming that the reserved matters details show the retention of and confirm the siting of the PROW within the context of the development scheme.

- 3.27 The site is Protected Open space in the proposals map (Core Strategy). The site despite being rather overgrown does have value as an informal recreational area.
- 3.28 Policy DM25 does not permit development which would result in the loss of open space unless:
- i there is no identified qualitative or quantitative deficiency in public open space in terms of outdoor sports sites, children's play space or informal open space or
 - ii where there is such a deficiency the site is incapable of contributing to make it good or
 - iii where there is such a deficiency the site is capable of contributing to making it good a replacement area with at least the same qualities and equivalent community benefits including ease of access can be made available or
 - iv the case of a school site the development is for educational purposes or
 - v in the case of small-scale development it is ancillary to the enjoyment of the open space and
 - vi In all cases except point 2 the site has no overriding visual amenity interest environmental role, cultural importance or nature conservation role.
- 3.29 The application would result in the loss of an area of open space to facilitate the residential development and access proposed. It has not been demonstrated that there is no identified qualitative or quantitative deficiency in public open space in terms of outdoor sports, children's play space or informal open space as set out in criteria 1 of Policy DM25. However, criteria iii notes that where a site is capable of contributing to making good a replacement area with at least the same qualities and equivalent community benefits including ease of access then development will be acceptable. Officers note that an integral part of this proposal is the provision of a public open space including a LEAP and its future management. In addition, a well-managed area of open space where increased informal open surveillance can be achieved would be a community benefit to the existing position and would through the public footpath, provide safe pedestrian access to local amenities and services.
- 3.30 The proposed retention of green space and the retention of the public footpath would improve informal surveillance (subject to an agreed complimentary site layout, the green space would also incorporate a Local Area of Play (LEAP). A large number of trees would also be retained and managed as part of the development. It is important to point out that the Inspector, considering the latest appeal, acknowledged that the development could provide the potential to enhance the area of open space. Accordingly, on balance it is considered that the development would not conflict with objectives of Policy DM25.

Impact on Trees

- 3.31 A TPO covers the site and was made because "the trees provide a line of visual amenity to the locality of Whitfield and a natural screen to the housing in Archer's Court road and adjoining housing estates, which should otherwise be prominent in an open landscape which viewed from the south, in particular the A2 Jubilee Way (TPO)"

- 3.32 The TPO covers a number of different tree species and was made in 1981. A number of trees listed are no longer present and some of the remaining trees are dangerous or dead, the lack of maintenance of the woodland is the key factor in this dieback and decline. However the remaining trees do make a significant contribution to public visual amenity and should be retained.
- 3.33 The scheme proposes the retention of a buffer zone. The location of the proposed dwellings towards the north of the application site could facilitate the retention of a large number of trees within the site. The indicative site layout is identical to the previous proposal under DOV/13/0358 and the Tree Officer had no objections in principle as the removal of the large amounts of dead and diseased trees will be beneficial and the majority of the felling of remaining trees lie towards the inner aspect of the site and should not cause an issue as a number of them are of poor value.
- 3.34 The Tree Officer notes that the Arboricultural Impact Assessment plans to repopulate the loss of the dead and diseased trees and there is a need for woodland management in the designated areas due to their neglect over the past few years and approval should be subject to conditions requiring tree protection measures during the construction phases. The Tree Officer notes that details of tree retention, management etc. are reserved matters and the layout is at present indicative only.

Visual and Rural Amenity

- 3.35 Concerns have been raised in relation to the location and layout of the proposal. Whitfield Parish Council has raised concerns that the proposal would increase the density of Whitfield and would not retain its character.
- 3.36 Although the proposal represents a form of backhand development, its cul-de-sac typology is not completely out of character with the existing development pattern of the area and its density at circa 16 dwellings per hectare is commensurate with that of Whitfield Village of around 20 dwellings per hectare.
- 3.37 The retention and supplementation of a significant proportion of tree planting along the southern boundary would mean that views into the site from the A2 would be limited. Views from Archer's Court Road would also be restricted as the site is set behind existing properties.
- 3.38 The indicative plan is the same as for the previous application showing an L shaped layout which officer consider acceptable. All properties are shown to have private rear gardens and would look into a public open space. The indicative layout shows that a scheme for 28 properties should be achieved within site without having an adverse impact on the character and appearance of the surrounding area.

Impact on Future Occupiers

- 3.39 An acoustic report was submitted in support of this planning application which was also submitted in support of the previous scheme. This included a noise assessment on the current noise regime and mitigation to prevent traffic noise impacting on the proposal. The report concludes that noise levels can be made acceptable through glazing types, mechanical ventilation and acoustic fencing along the southern boundary.
- 3.40 The Council's Environmental Health team required the submission of an up to date Acoustic Report and has now advised that matters can be mitigated through the

requirement to submit an acoustic fence albeit with an increased height of 4.5 metres. Such details will be required as part of the reserved matters submission.

- 3.41 Environmental Health has no objections with regard to Air Quality.
- 3.42 With regard to Land Contamination Environmental Health require conditions including a watching brief as part of a standard contaminated land condition to be imposed should planning permission be granted.
- 3.43 With regard to residential amenity concerns, private gardens are to be part of each proposed dwelling. The distance from the existing houses is sufficient to overcome any adverse issue with regard to privacy and overlooking. Officers advise that such detailed matters with regard to mass, elevations, street scene and materials are all matters to be considered at reserved stage subject to planning permission being granted.

Foul Drainage

- 3.44 Southern Water initially had no objection subject to a condition to the effect that construction of development not commence until details of the proposed means of foul and surface water sewerage disposal be submitted and approved. They have since confirmed that further work is being carried out to determine the capacity of the connecting route (Sandwich Road via Newlands Road waste water pumping station). The results of this should be available in time for the Committee and will be reported verbally.
- 3.45 Without pre-judging the outcome, a potentially proportionate approach to foul drainage (given the relatively limited scale of this development) would be to impose a condition to the effect that prior to the submission of any reserved matters application, details of the means of foul sewerage disposal be agreed/approved. This should avoid a situation whereby a reserved matters application is submitted without an agreed solution being in place. In particular circumstances one solution could be to require on-site foul storage with release of flows into the wider network at times of non-peak use (i.e. when capacity would exist). This would need to be planned early in the design of the development and as such would be appropriately dealt with at the pre-reserved matters stage.

4. Conclusion

- 4.1. This application is for outline planning permission for up to 28 dwellings of which 30% will be affordable and the demolition of 14 Archers Court Road to facilitate a new vehicular access onto the site. All matters are reserved apart from access into the site.
- 4.2 A previous scheme was refused planning permission for highway reasons. Although this was upheld on appeal to the Planning Inspectorate, a legal challenge to the High Court was successful and the matter was referred back to the Planning Inspectorate to be reconsidered. The appeal was again dismissed but the sole reason for refusal related to the insufficient provision of information to demonstrate that the site would not give rise to significant harm to biodiversity. The scheme was therefore held to be contrary to paragraphs 17 and 109 and 118 of the NPPF.
- 4.3 The current scheme is a resubmission which does not propose any material changes to the application previously considered in 2016 other than providing additional supporting information to address the Inspectors objection, namely bat, reptile and

dormouse surveys. The evidence provided relating to ecology is considered satisfactory.

- 4.4 The Council can now demonstrate a five year housing supply and accordingly full weight can be given to all relevant Planning Policies within the Core Strategy relating to the supply of housing. Officers consider that the proposal is in accordance with Policies DM1, DM25 and CP6 of the Core Strategy 2010. It is also considered to accord with the objectives in the NPPF relating to achieving economic, social and environmental benefits: Some economic benefits will arise from the construction phase; modest social benefits from adding to the housing supply and providing affordable housing in particular; and environmental gains through the opportunity to enhance on-site open space and reduce noise through a new noise barrier. In conclusion, your officers are satisfied that the proposal constitutes a sustainable form of development and set against the recent appeal decision in particular, can be fully supported.
- 4.5 The views of the Parish Council and local residents have been taken into account in the consideration of the proposals.

g) Recommendation

- I. Subject to the further views of Southern Water and the submission and agreement of a section 106 agreement to secure necessary planning contributions/infrastructure, outline planning permission be GRANTED, subject to conditions to include: (1) Outline time limits (2) Submission of details of foul drainage for approval to LPA prior to submission of Reserved Matters (3) Reserved matters to include layout, elevations, floor plans, sections through the application site and adjoining land, floor levels and thresholds, samples of materials, bin storage, street scenes, details of surface water drainage (SuDS) and maintenance thereof, route of public right of way, details of the LEAP (local area of play) and acoustic barrier (4) Approved plans (5) Construction Management Plan (6) Highway conditions (7) Affordable housing provision (numbers, type, tenure, location, timing of construction, housing provider and occupancy criteria scheme (8) Full Landscaping Survey (9) Protection of Trees (10) Reporting of unexpected land contamination (11) Details of surface Water drainage and infiltration rates (12) Ecological mitigation and enhancements (13) Submission of acoustic report (14) Noise mitigation strategy (15) Full details of enhanced scheme for biodiversity (16) Submission of Archaeological Scheme
- II. Powers to be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and to agree a section 106 agreement, in line with the issues set out in the recommendation and as resolved by Planning Committee.
- III Informatives: (1) KCC PROW (2) Environmental Agency (3) Affinity Water (4) County Highway Authority

Case Officer
Myles Joyce