

- a) **DOV/16/00955 – Erection of a detached building incorporating 10 flats, alterations to existing access, provision of 12 car parking spaces and associated landscaping (existing building to be demolished) - Site at Adelaide Farm Cafe, Sandwich Road, Hacklinge, Deal**

Reason for report – number of contrary views.

- b) **Summary of Recommendation**

Refuse permission.

- c) **Planning Policy and Guidance**

Statute

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that planning applications be determined in accordance with 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.  
DM1 – Settlement boundaries.  
DM11 – Location of development and managing travel demand.  
DM13 – Parking provision.  
DM15 – Protection of the countryside.  
DM16 – Landscape character.

Saved Dover District Local Plan (2002) policies

None.

Dover District Land Allocations Local Plan (2015)

None.

National Planning Policy Framework (NPPF) (2018)

2. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective...
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

78. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities...

124. The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process

127. 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.

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

155. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

157. All plans should apply a sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

- a) applying the sequential test and then, if necessary, the exception test as set out below;
- b) ...
- c) using opportunities provided by new development to reduce the causes and impacts of flooding (where appropriate through the use of natural flood management techniques); and
- d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.

158. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

159. If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance.

160. The application of the exception test should be informed by a strategic or site specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. For the exception test to be passed it should be demonstrated that:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

161. Both elements of the exception test should be satisfied for development to be allocated or permitted.

163. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) ...
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

177. The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

## **OTHER CONSIDERATIONS**

Flood zone 3.

Adjacent to Thanet Coast and Sandwich Bay Ramsar site, and Sandwich Bay to Hacklinge Marshes SSSI.

d) **Relevant Planning History**

None.

e) **Consultee and Third Party Responses**

**DDC Heritage** – considered, no comment.

**DDC Ecology** – considered, no objection to ecology report. Comments that Natural England defers to the Environment Agency regarding water voles.

**DDC Environmental Health** – no objection – subject to land contamination condition.

**DDC Strategic Housing** – no contribution required.

**KCC Highways – no objection** – subject to standard highways conditions, closure of existing access, and provision and maintenance of visibility strip.

**KCC Local Lead Flood Authority (LLFA)** – no objection subject to conditions –

We provided a consultation response on this development proposal on 9 October 2017 requesting further information to support the utilisation of infiltration in this development.

Though a revised Flood Risk Assessment (January 2018) has been submitted it does not appear to address our comments specifically in relation to ground investigation to confirm infiltration rates.

There is a major concern that the drainage proposal as presented will not be feasible but as this development is a brownfield development we will accept that conditions can be applied to manage the risk associated with development of the drainage design.

If your authority is minded to approve this application, we would recommend inclusion of the following conditions:

1. No development until a surface water drainage scheme has been submitted to and approved by the local planning authority (LPA).
2. Infiltration drainage to be agreed by the LPA.
3. No occupation of buildings until an operation and maintenance manual of the drainage system has been submitted to and agreed by the LPA.
4. No occupation of buildings until a verification report from a suitably qualified professional has been submitted to and agreed by the LPA.

Please note:

If infiltration is found not to be viable at this location then discharge to the ordinary watercourse at the boundary of the site will be required. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require formal flood defence consent (including culvert removal, access culverts and outfall structures).

**Natural England** – no objection – based on appropriate assessment for principle of residential development and the impact of drainage of the proposed drainage systems.

**Environment Agency** – objects –

Thank you for re-consulting us on the above planning application. We have reviewed the additional information and retain our objection as explained below.

The revised plans will pose unacceptable risk to groundwater.

The information submitted on drainage confirms foul drainage would be to a number of sealed cess pits with 30+day capacity. In this area, we are concerned about the number of cess pits and possible leaks from the units or pipework, given local groundwater levels which could fluctuate and pose risks of floatation or disconnection. There is also no detail on the proposed units in terms of near capacity/overflow alarms.

Additionally, no further information has been submitted to support the proposals for surface water discharges to an infiltration blanket, in terms of the contamination status of underlying ground and local, flow paths and adjacent land status.

Due to the above, we are unable to remove our objection to the proposal.

**River Stour IDB** – observations, based on originally submitted scheme and comments of others at that time – Please note that this site is directly alongside the South Stream, which is designated as Main River and therefore under the Environment Agency's jurisdiction. In accordance with the Land Drainage Act and EA Byelaws any

proposed works which might affect this watercourse, including any works within 8 metres of it, will require the EA's prior written consent (Flood Risk Activity Permit).

The applicant has acknowledged that the site is within Flood Zone 3 (high risk) but has provided very little information to support a flood risk assessment (I note KCC's Sustainable Drainage Team Leader's holding objection) [**now superseded**]. The applicant appears to have set floor levels based on local ordnance survey bench marks. You will no doubt be aware that past mining activity has resulted in significant land subsidence, so the applicant should check the accuracy of this information. Details of flood risk, including the risk of ground-floor sleeping accommodation and site evacuation arrangements, should be developed in accordance with EA guidance.

It is stated on the application form that the site measures 300 square metres, which is the size of the proposed building, whereas the site actually measures around 3000 square metres. It is also stated on the application form that surface water will be disposed of by soakaways, but in the FRA that "drainage will as existing discharging rain water into the South Stream." The applicant should be requested to develop details of proposed surface water drainage, including pollution control measures, in direct consultation with the Environment Agency (as the EA's consent is required for the final discharge and the adjacent watercourse is pumped by Hacklinge Pumping Station, an EA asset).

**Southern Water** – there is a public water main within the vicinity of the site – the exact position must be determined by the applicant before the layout of the site is finalised.

"There is no public foul sewer in the area to serve this development. The applicant is advised to examine alternative means of foul sewage disposal.

The Environment Agency should be consulted directly regarding the use of a private wastewater treatment works or septic tank drainage which disposes of effluent to sub-soil irrigation. The owner of the premises will need to empty and maintain the works or septic tank to ensure its long term effectiveness."

**Crime prevention design advisor – no objection** – subject to comments about boundary treatment, security of ground floor windows and referral to the Kent Design Initiative for crime prevention and community safety purposes.

**Sholden Parish Council – no objection** – suggests addition of windows in gable end facing A258.

#### **Public comments – 8 x support, 1 x objection.**

##### Support

- Brownfield development.
- Provides needed rental accommodation in area.
- Landscaping will be a benefit to visual amenity.
- Will make a dangerous stretch of road safer.
- Café no longer a viable concern.
- On bus route, easy access to trains.
- Proposed building will be energy efficient.
- Opportunity for people to downsize.

##### Objection

There is a risk to biodiversity downstream as a result of possible pollution on South Stream and Delf water courses, which are in special conservation zones and provide habitats for vertebrate and invertebrate species, including rare dragonflies, breeding birds and a range of aquatic flora.

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

The Site

- 1.1. The site is located on the eastern side of the A258 Sandwich Road in Hacklinge. It comprises a building formed of multiple sections, which is currently used as a café. A building has existed in this location since the early 1900s. In front of the building (west) is an area formed of loose stone and some hard standing, which is used as car parking for the café.
- 1.2. The wider setting of the site to its north and east is flat and open marshland, stretching approximately 3.2km to the sea. Some screening is provided by a mix of deciduous and evergreen plants and trees.
- 1.3. Adjacent to the north of the site is a car wash. Adjacent south of the site is the South Stream and immediately beyond that is the Thanet Coast and Sandwich Bay Ramsar site and Sandwich Bay to Hacklinge Marshes Site of Special Scientific Interest (SSSI). On the stream bank is some vegetation consisting of a grassed area and trees, some of which overhang the stream.
- 1.4. West of the A258 is a dwelling and south along the A258 is The Coach and Horses pub and centre of the Hacklinge hamlet. East of the site is Adelaide farm house.
- 1.5. Dimensions of the site are:
  - Width – 64 metres.
  - Depth – 53 metres.
  - Café set back from highway – 24.5 metres.

The Proposal

- 1.6. The proposal is to demolish the existing building containing the café and erect a single, two storey building, on a south west/north east axis, containing 10 flats. 12 parking spaces would be provided as well as amenity space surrounding the building, to its north and south. The car park would be surfaced in shingle.
- 1.7. The building would be comprised of a single block, with a pitched roof, composite weatherboarding and a composite grey tiled roof. Five flats would be located on the ground floor and five flats would be located on the first floor. One of the gable ends would face the highway.
- 1.8. A boardwalk is proposed to be constructed north and south of the building, providing access.
- 1.9. Dimensions of the building are:
  - Width – 29.2 metres.
  - Depth – 10 metres.
  - Ridge height – 8.7 metres.
  - Eaves height – 4.7 metres.
  - Set back from highway – 17.5 metres.

**2. Main Issues**

2.1. The main issues to consider are:

- Background to the item
- Principle
- Ecology
- Street scene, design and countryside impact
- Residential amenity
- Flooding and drainage
- Highways

### **3. Assessment**

#### Background to the Item

- 3.1 This application was on the agenda for the 27 July 2017 meeting of planning committee, with a recommendation to refuse permission. It was, however, not considered at that meeting following the applicant's request to address technical matters within the report, relating to drainage and ecology.
- 3.2 Since that time, the applicant has submitted three revisions, seeking to address the technical matters. Each of these technical revisions has been consulted on with the relevant bodies – Natural England, Environment Agency and KCC in its role as the lead local flood authority (LLFA).
- 3.3 The report below shows that a number of the issues have been addressed and objections have been removed, however, even after three revisions, there remains an outstanding objection from the Environment Agency.
- 3.4 It is considered that adequate opportunity has been afforded to the applicant to address these technical matters in full, and subsequently this application is again being reported to planning committee.

#### Principle

- 3.5 The site is located far outside of the settlement boundaries. The nearest boundaries are at Worth, 1.2 miles to the north (in a straight line), and Sholden (Deal urban boundary) 1.15 miles to the south east (in a straight line).
- 3.6 Policy CP1 defines Hacklinge as a hamlet. The policy states that hamlets are, "not suitable for further development unless it functionally requires a rural location". Policy DM1, which defines the settlement boundaries, states that, "development will not be permitted... outside the... rural settlement confines... unless specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses".
- 3.7 It is considered that the proposed development does not meet the criteria of either policy CP1 or policy DM1, with no other justification provided by development plan policies elsewhere in the Core Strategy or Land Allocations Local Plan. Residential development in this location, as proposed, would normally therefore be considered unacceptable in principle.
- 3.8 The local planning authority (LPA) is currently in a position where it cannot demonstrate a five year supply of deliverable housing land, although this is currently being reviewed in the light of the further definition that has been provided by the 2018 NPPF in relation to how the supply figure is calculated.

- 3.9 Further to this, the LPA has accepted in public inquiry that its housing supply policies contained in the Core Strategy at CP2 and CP3 are out of date. This is following the LPA update of the evidence base that underpins these policies – the Strategic Housing Market Assessment (SHMA) in 2017.
- 3.10 Where such policies are out of date, this would normally mean that the presumption in favour of sustainable development is engaged. Where engaged, the weight given to DM1 is reduced, and the proposal is assessed in the context of the NPPF taken as a whole.
- 3.11 The ruling of the European Court of Justice (ECJ) in the case of the People over Wind and Sweetman concluded that ecological mitigation measures could not be factored in at the habitats screening stage. This was the approach that the LPA had been using in relation to the assessment of whether residential developments would have a likely significant effect on the European sites at the Thanet Coast and Sandwich Bay. The correct approach has been determined that if a likely significant effect cannot be ruled out then an appropriate assessment must be undertaken, which will consider the effect of the development, or otherwise, on the European sites.
- 3.12 The result of this approach is that under paragraph 177 of the 2018 NPPF, due to the need for an appropriate assessment to be undertaken, the presumption in favour of sustainable development does not apply.
- 3.13 Accordingly, it is the position of the LPA that significant weight is to be afforded to policy DM1, and that the proposed development is unacceptable in principle.

#### Ecology

- 3.14 As addressed, the proposed development requires that an appropriate assessment be undertaken in relation to the potential effects of recreational pressure on the European sites at Thanet Coast and Sandwich Bay, and in relation to the potential for water quality thresholds to be breached within the North and South Streams and the nearby Delf Stream, as a result of the proposed drainage arrangements – both foul and surface.
- 3.15 The following appropriate assessment has been undertaken in relation to the potential for recreational pressure to arise from the proposed development.

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

- 3.16 *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.*
- 3.17 *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 an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.*

- 3.18 *Following consultation with Natural England, the identified pathway for such an adverse 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.*
- 3.19 *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.*
- 3.20 *Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.*
- 3.21 *Having had regard to the proposed mitigation measures, it is considered that the proposal would not have an 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 any harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.*
- 3.22 In relation to the potential effect on water quality, the following conclusion has been reached:
- Treated effluent will no longer be discharged into the Ramsar site as indicated by the Foul and Surface Water Drainage Strategy Plan dated 5 July 2018, and therefore the previous impact has now been avoided.*
- 3.23 The Environment Agency has previously commented that the submitted scoping survey was inadequate in relation to water voles (these are the responsibility of the Environment Agency). However, subsequent correspondence indicates that this can be dealt with under a planning condition if necessary.
- 3.24 The DDC Ecology officer has otherwise concluded that the submitted ecology information is adequate.

#### Street Scene, Design and Countryside Impact

- 3.25 The site is located within an area of primarily flat and open marshland, adjacent to the A258. It is open to long range views particularly from the north and east. Some screening is provided by existing buildings and vegetation, however, it is considered that the proposed scale, form and finish of the building means that the development would be of a significant mass.
- 3.26 It is considered that the siting, scale, form and finish of the building would result in a freestanding and monolithic addition to the locality, which is not clearly informed by its context. The location of a freestanding residential block at this location and sited in relatively close proximity to the highway would appear out of context and obtrusive as seen within the street scene.
- 3.27 Individual elements of the proposal may be acceptable in alternative locations,

however, with all elements taken in combination, the proposal is considered to represent poor design, in line with paragraph 130 of the NPPF. The proposal is considered unacceptable in design terms.

- 3.28 Policy DM15 of the Core Strategy concerns the protection of the countryside. Development that would result in the loss of, or adversely affect the character or appearance of the countryside will only be permitted if: it is in accordance with allocations made in the local plan; justified by the needs of agriculture; or justified by a need to sustain the rural economy or a rural community. The proposal is not on allocated land nor is it an agricultural development. No information has been presented that suggests this proposal will help to sustain the rural economy or a rural community. Accordingly, the proposal is considered contrary to policy DM15.
- 3.29 Policy DM16 of the Core Strategy concerns landscape character. Development that is considered to harm the character of the landscape will only be permitted if it is in accordance with allocations made in the local plan and incorporate necessary mitigation; or it can be sited to avoid/reduce harm and incorporate mitigation measures which reduce impacts to an acceptable level. The proposal is not in accordance with allocations in the local plan, so the question becomes one of siting. The siting of the proposal in combination with its design details is considered to be a key aspect in what makes the proposal unacceptable in more general design terms, and there are no mitigation measures presented which would reduce its impact. The proposal is therefore considered also to be unacceptable assessed against the criteria of DM16.

#### Residential Amenity

- 3.30 The site is relatively isolated from existing residential development except the farmhouse behind (east) it. In terms of the functioning of the site, any overlooking or overshadowing, the proposal is unlikely to cause undue harm to the amenity of existing residents.

#### Flooding and Drainage

- 3.31 The site is located in flood zone 3, and accordingly a site specific flood risk assessment is required, as well as the undertaking of the sequential test and, if passed, the exceptions test also.
- 3.32 Having reviewed the submitted information, the Environment Agency has objected to the scheme on the following ground:

*“The revised plans will pose unacceptable risk to groundwater.*

*The information submitted on drainage confirms foul drainage would be to a number of sealed cess pits with 30+day capacity. In this area, we are concerned about the number of cess pits and possible leaks from the units or pipework, given local groundwater levels which could fluctuate and pose risks of floatation or disconnection. There is also no detail on the proposed units in terms of near capacity/overflow alarms.*

*Additionally, no further information has been submitted to support the proposals for surface water discharges to an infiltration blanket, in terms of the contamination status of underlying ground and local, flow paths and adjacent land status.”*

- 3.33 The Environment Agency also originally objected to the application in relation to the level at which sleeping accommodation would be located, given that the site is located in flood zone 3 and that no information was originally submitted in relation to this. The revised flood risk assessment notes that the ground floor of the building to be demolished is 0.8m AOD, whereas the predicted fluvial 1% + climate change level is 0.43m AOD, with a local precautionary allowance of 0.85m – equalling a predicted flood level of 1.28m AOD. The Environment Agency has accepted this data, but has stipulated that in the case of permission being granted sleeping accommodation should be set at 0.6m above the predicted flood level, that is 1.28m plus 0.6m – or 1.88m AOD.
- 3.34 The proposed development is considered to be unacceptable in principle, and as such, no design revisions have been sought from the applicant which would illustrate how this requirement might be accommodated. The applicant has not indicated the ground level of the proposed building, but taking a reasonable assumption that before any requirements from the Environment Agency that the ground level of the existing building is brought forward, it could ultimately be the case that were permission to be granted, the height measurements of the proposed building would need to be raised by approximately 1.08 metres.
- 3.35 Kent County Council as the LLFA has indicated a concern that the submitted drainage design does not adequately address their concerns about infiltration rates, and the capacity of the ground to accommodate the rates, however, they have accepted that conditions can be applied to manage the risk associated with the drainage design. Accordingly, the concerns raised by the LLFA are considered to have been addressed.
- 3.36 In relation to the sequential test and the exceptions test, paragraph 161 of the NPPF explicitly states:
- "Both elements of the test will have to be passed for development to be allocated or permitted."*
- 3.37 The purpose of the sequential test is in the first instance to direct development towards areas of lowest flood risk. Paragraph 158 of the NPPF states that:
- "Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding..."*
- 3.38 The applicant has submitted a revised flood risk assessment, following earlier comments from the Environment Agency, which contains an updated sequential test. However, the test incorporated concludes that due to the site being previously developed land, the test is passed. This is not considered to be an adequate approach to the test. It is considered that under paragraph 158, quoted above, there would need to be a proportionate assessment of alternatively available land, to be able to reasonably conclude that the sequential test has been passed. It is considered that insufficient information has been included and the conclusion therefore is that the sequential test has not been passed.
- 3.39 In accordance with the paragraph 161, the development is therefore not considered acceptable in this regard.

#### Highways

- 3.40 The highways officer has not objected to the scheme, subject to the use of

standard conditions, as well as securing the visibility splay and permanently closing the existing access.

- 3.41 The scheme provides 12 parking spaces, two for each flat and 0.2 per flat for visitors (equating to an extra two spaces). This is in accordance with the standards set out in policy DM13.
- 3.42 Policy DM11 directs that development outside of settlement boundaries which would generate travel will not be permitted. While mindful of the fact that the existing use does have associated travel movements and that there is a bus service that runs along the A258, the nature of the proposal is likely to be different to that of the existing use, with a more sustained travel period spread across 24 hours. No consideration of this aspect has been submitted with the proposal and on the balance of considerations; it is considered that the scheme is contrary to policy DM11.
- 3.43 The proposal is considered to be acceptable on highways technical grounds, i.e. layout, visibility etc. However, it is contrary to policy DM11 and is therefore unacceptable on that basis.

#### **4. Conclusion and Sustainability Overview**

- 4.1 For the reasons addressed above, the presumption in favour of sustainable development is not considered to be engaged. Nevertheless, it is considered prudent to conclude on the relative sustainability, or otherwise, of the proposal. There are three dimensions to sustainable development: economic, social and environmental. Planning therefore needs to perform roles in respect of these, and consider each development proposal on that basis.

##### Economic

- 4.2 The proposed development represents the loss of an existing business use, which is negative. This is balanced by the proposed development, which would provide for a degree of economic benefit in its construction and could bring more people to the area. However, given that Hacklinge is a hamlet with limited economic activity/facilities, the economic support arising from new residents is considered itself to be limited. The development is considered to be neutral in economic terms.

##### Social

- 4.3 The proposed development represents the loss of a communal facility, which is negative. This is balanced by the potential arrival of new residents (subject to where these residents might originate from) that could help to maintain and play a part in the local community. The development is considered to be neutral in social terms.

##### Environmental

- 4.4 The proposed scheme is unacceptable in principle, it is located far outside of settlement boundaries and is in a countryside location, adjacent to a Ramsar site and SSSI. The design of the proposal would have an unacceptable impact on the street scene and local character appearing as an obtrusive and monolithic form. In addition, the Environment Agency has objected to the scheme, based on risks to groundwater and insufficient details relating to contamination. The submitted information is considered to be insufficient to be able to determine if the proposal

passes the sequential test, and therefore, it is considered that the test has not been passed. Any environmental benefits that might arise from the site are considered to be significantly outweighed by the adverse effects of the proposal.

4.5 In sustainability terms, the proposed development is considered to be neutral in economic and social terms. In environmental terms it is considered to be negative. Overall, the proposed development is considered to be unsustainable.

g) **Recommendation**

I. Planning permission be REFUSED for the following reasons:

- 1) The proposal, if permitted, by virtue of its location outside of settlement boundaries in a countryside location, would represent an unjustified, unsustainable form of development well beyond any urban boundary or settlement confines, and would give rise to travel movements outside of settlement confines, contrary to policies CP1, DM1 and DM11 of the Core Strategy, and the aims and objectives of the NPPF at paragraphs 2, 8 and 78 in particular.
- 2) The proposed building, by virtue of its location, siting, mass, orientation and finish, would if permitted, give rise to an incongruous and obtrusive form of development, which would result in harm to the quality and visual amenity of the street scene and local landscape, and would represent poor design, contrary to policies DM15 and DM16 of the Core Strategy, and the aims and objectives of the NPPF at paragraphs 127 and 130 in particular.
- 3) The proposed development, if permitted, would give rise to an unacceptable risk of contamination to groundwater in a sensitive location, and the submitted documentation relating to foul sewerage and surface water drainage does not adequately demonstrate that these contamination risks can be satisfactorily managed, contrary to the aims and objectives of the NPPF at paragraphs 163 and 170.
- 4) The submitted documentation relating to flood risk, including the flood risk assessment and the planning statement, does not adequately undertake the necessary sequential test, which is required by virtue of the site being located in flood zone 3, meaning that Dover District Council is unable to assess if more suitable development sites exist in areas which are at less risk from flooding in accordance with paragraphs 159, 160 and 161 of the NPPF which state explicitly that the sequential test will have to be passed for development to be permitted. The proposal is contrary to the aims and objectives of the NPPF at paragraphs 155, 157, 158, 159, 160, 161 and 163 in particular.

II. That powers be delegated to the Head of Regeneration and Development to settle the precise reasons for refusal and/or planning conditions, in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Darren Bridgett