

- a) **DOV/18/00221 – Erection of a six-storey building, comprising flexible Class A1, A2, A3 and A4 uses (ground floor) and flexible Class A1, A2, A3 and A4 uses and B1 (1st Floor) and the formation of 28 flats (2nd-5th floor); separate commercial and residential access; associated commercial bin storage; secure residential bin and cycle storage; gated rear service yard; four parking spaces; communal roof garden at third-floor level and associated works - 62 Castle Street, Dover**

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

b) **Summary of Recommendation**

Planning permission be granted

c) **Planning Policies and Guidance**

Core Strategy Policies

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

Land Allocations Local Plan

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

National Planning Policy Framework 2019 (NPPF)

- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.

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

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

- Chapter six requires that planning decisions help to create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- Chapter seven supports the role that town centres play at the heart of local communities and seeks to promote their vitality and viability.
- Chapter eight promotes healthy and safe communities. This includes the promotion of social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Developments should be safe and accessible, so that crime and disorder and the fear of crime and disorder do not undermine the quality of life or community cohesion. Policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; and ensure that established shops, facilities

and services are able to develop and modernise, and are retained for the benefit of the community.

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

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

- Chapter fourteen requires that development should be directed away from areas at the highest risk from flooding.
- Chapter sixteen requires that applicants describe the significance of any heritage assets affected by the development, including any contribution to their setting. Where a site on which development is proposed includes, or has the potential to

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

The Kent Design Guide (KDG)

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

d) **Relevant Planning History**

DOV/02/00567 – Change of use (including external alterations) to traditional ale, wine and food house and demolition of part of rear to form beer garden – Granted

DOV/02/00570 – Change of use (including external alterations) to traditional ale, wine and food house and demolition of part of rear to form beer garden – Granted

DOV/02/00570A – Revised plans relating to planning approval for change of use to traditional ale, wine and food house, involving internal and external alterations and revised size/siting of beer garden – Granted

DOV/02/00570B – Revised plans relating to planning approval for change of use to traditional ale, wine and food house, involving internal and external alterations and extensions and modifications to rear to form revised size/siting of beer garden/terrace – Granted

DOV/14/00779 – Demolition of building – Prior Approval Required

e) **Consultee and Third Party Responses**

KCC Highways – No objection to the principle of the development. Whilst there is very little on-site parking, the site is in the town centre with good access to public transport and public car parks. Whilst some trips may be generated, overall, the proposals are unlikely to have a severe impact on the highway that would warrant a recommendation for refusal.

Access for service/delivery vehicles is intended to be via the St James development and this will need to be conditioned to ensure that such vehicles do not instead use Dolphin Passage or Castle Street and obstruct the highway whilst loading/unloading.

Cycle parking should be provided.

Stagecoach – Separate discussions regarding improvements to the Market Square have identified a need to relocate the existing bus stop to the area in front of 64/66/68 Castle Street. Whilst no final decisions have been made (so far as we are aware), we

would need to be satisfied that the development proposed in the current application does not interfere with this.

Historic England – *Initial advice received 20th June 2018:*

Historic England has concerns regarding the application on heritage grounds.

62 Castle Street lies in part of the historic core of Dover. The street was first established in the 1830s as a continuation from the market place. Its historic nature is evident by the large number of 19th century terraced houses which survive on the street. The eastern part of Castle Street lies in the Dover Castle Conservation Area and the Dover Town Centre Conservation Area is nearby, with 62 Castle Street lying between the two. Dover Castle Conservation Area is focussed on Dover Castle and includes the surrounding, primarily 19th century, development. The Dover Town Centre Conservation Area is centred on Cannon Street, the market square and Biggin Street and contrasts with the Dover Castle Conservation Area as it forms an urban town centre comprising principally of 19th and early 20th century buildings. Castle Street forms a sight line between the market square and the castle which historically inspired artists and photographers, and as such is a significant remnant of the town's historical development and of the Conservation Area.

Whilst we appreciate the applicant's aim to reflect the adjoining Dolphin House's height, the majority of buildings on Castle Street within the Conservation Area and adjacent are smaller in scale. Modern two and four storey buildings dominate the western end of the street, whilst the eastern end is characterised by low scale three storey 19th century terraces. The proposed development is significantly taller than this, at six storeys, and would therefore cause a low level of harm, particularly to the Dover Castle Conservation Area, as it would impinge on views up to the castle from the street and market square. This is a historic view in which it is possible to appreciate the way in which the Castle dominates the town, as evidenced by the many historic drawings and photographs of this street. It is clear that the applicant has attempted to mitigate the scale of the building by stepping back the fifth and sixth storeys, and therefore minimise the harm to the adjacent conservation area as per paragraph 129 of the NPPF. However, we think that the harm could be further minimised by reducing the number of storeys so that the scale of historic development here is more closely replicated. We think this might also represent an enhancement to the quality of the historic environment as endorsed by Paragraph 131 of the NPPF.

We also have concerns regarding the materials proposed, for example the use of metal panels. Castle Street's palette of materials is quite restricted, with the majority of buildings being brick or stucco. We would encourage the applicant to re-assess the materials proposed and to consider alternatives which complement prevailing historic finishes in adjoining conservation areas rather better.

Archaeology should also be considered, as the site has great potential to contain archaeological remains of the Roman and Post-Medieval periods, and prehistoric palaeo-environmental remains, as well as moderate potential for Anglo-Saxon and Medieval Remains.

If you ultimately conclude the harm has been avoided or minimised, then Paragraph 132 applies. This states that any harm to a designated heritage asset should require a clear and convincing justification. Your Council must then apply paragraph 134 of the Framework which states that where a proposal will lead to less than substantial harm to the significance of the heritage asset, the local authority should weigh this harm against the public benefits of the proposal.

Further comments received 6th December 2018:

Historic England has concerns regarding the application on heritage grounds.

The view from Castle Street up to the Castle is a historic one, and this development would impinge on this. We note that the development within this view (View 2) has been assessed as not detracting from the important view towards the Castle or the view along Castle Street. We disagree, and the impact on the street and on the historic view to the Castle is clearer if one stands next to no 7 Dickens Corner, which is situated on the corner of Castle Street and Church Street, rather than slightly further south in the market square as shown in the views assessment. Our comments as stated in our previous letter, which I attached for reference, therefore still stand.

The proposed development remains significantly taller than the existing buildings, at six storeys, and would therefore cause a low level of harm, particularly to the Dover Castle Conservation Area, as it would impinge on views up to the castle from the street and market square. We think that the harm could be further minimised by reducing the number of storeys so that the scale of historic development here is more closely replicated. We think this might also represent an enhancement to the quality of the historic environment as endorsed by Paragraph 192 of the NPPF.

KCC Archaeology – Initial comments received 12th December 2018:

The site is known to contain or has the potential to contain a range of deeply stratified archaeological deposits including:

- Important sequences of palaeoenvironmentally rich deposits and potentially preserved timber structures, artefacts or vessels of Prehistoric and Romano-British date;
- Remains associated with the former Roman harbour
- Sequences of stratified medieval and post-medieval deposits, potentially including buildings, yards and rubbish pitting of domestic commercial or industrial origin.

The site has the potential to contain important archaeological deposits and sequences and it is suggested that further information is now required to characterise and assess the survival of archaeological remains within the proposed development site so that these can be appropriately considered and taken account of in any planning decision.

Paragraph 189 of the NPPF notes that where a site includes (or has the potential to include) heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. In this instance it is suggested that it would be appropriate and reasonable to request field evaluation works prior to determination of the planning application. This is because heritage assets are an irreplaceable resource (as described in paragraph 184 of the NPPF) and it is possible that the proposed development site includes archaeological remains whose significance is such that they should be preserved in situ.

In this respect KCC have previously provided the applicant's archaeological advisors with pre-application advice when the need for such evaluation works was highlighted.

If you are minded to determine the application without seeking further information from the applicant, then I would welcome the opportunity to advise further.

Further response received 14th March 2019:

The site has the potential to contain important archaeological remains and KCC's preferred approach, in line with the NPPF, would be to evaluate this potential prior to the determination of the planning application.

Further information submitted by the applicant does however provide some more confidence, especially in terms of the comments from their architects which 1) confirms that there is some flexibility around the design of foundations and furthermore, 2) the acknowledgement that they would be amenable to considering alternative locations for more fixed elements of the scheme (such as stair and lift cores) by means of a non-material amendment to the scheme.

If accepted, then KCC think that this commitment, alongside appropriately worded planning conditions would be acceptable, subject to a suite of conditions requiring: archaeological field evaluation prior to the commencement of the development, including details of preservation of remains in situ or by record, as appropriate; the submissions of a Post Excavation Assessment Report within 9 months of archaeological works, which shall be published; and full details of foundation design and below ground excavation to be submitted and approved before development takes place.

DDC Head of Inward Investment – Support.

The redevelopment of the St James area of Dover Town Centre has been a long held ambition for the Council. While much progress has been achieved with the investment by Legal and General Investment Management funding the St James scheme, it is critical that momentum is maintained. The changing face of retail and pressures on town centres are bringing ever greater challenges to localities such as Dover.

Although a number of initiatives are in process, it is crucial that investment opportunities such as those envisaged by the planning application under consideration are taken forward. The application will bring a mixed use development into the heart of the town centre, bringing more diverse retail opportunities and residential footfall. In addition to this, redevelopment of the site will supplement the St James scheme and provide more visibility to the investment community that Dover is open for business.

As ever, viability is often a key determinant with schemes in Dover and balances need to be weighed in the decision making process. Consequently, any reductions in the massing and scale of the application are likely to impact on the development going forward.

DDC Heritage Team – As originally submitted, the application had failed to demonstrate that the historic environment had been considered. Consequently, further information was submitted from the applicant. The report contains poor quality photographs and the assessment of each is extremely brief and demonstrates no depth of understanding and an uninformed assessment of the implications of the development on the heritage.

There is no attempt to identify the harm using the established terminology as set out in the NPPF. The report provides a very brief conclusion that the development will cause "no harm" to the setting of heritage assets and that the "impact on critical views is negligible". I appreciate that this is a reasonable conclusion based on the body of the report, but as this is eminently flawed, the conclusion is not accepted. It is also contrary to the conclusion of the heritage statement initially received which identified

harm which it defines as less than substantial. I agree with the conclusion of the first report: harm is caused to the character of the Conservation Area and to the setting of listed buildings, including the castle. In my view this is as a result of the height, bulk and design of the proposed development.

Unfortunately the newly submitted document falls very short of adequately dealing with the concerns that were raised regarding the initial submission. The application fails to address the issues raised by Historic England. The harm caused to the Conservation Area and neighbouring listed buildings could be mitigated somewhat by a reduction in the height of the building. Removal of one storey would bring the building to a more comfortable relationship with the streetscene and help to reduce the impact on the view of the wider view of the castle that is currently able to be enjoyed from Castle Street (described as the 'landscape of the Eastern Heights' in the first heritage statement submitted).

Natural England – No objection

DDC Environmental Health – No objection, subject to conditions being attached to any grant of permission regarding: the remediation of any potential contamination identified; the provision of sound insulation between commercial and residential uses and between residential uses; and the submission and approval of a construction management plan.

Kent Fire and Rescue – The means of access is considered to be satisfactory.

Environment Agency – *Initial comments received 21st June 2019:*

Object. The proposal eliminates the possibility of reversing the substantial loss of watercourse habitat due to the existing culvert. It is recommended that permission be refused on this basis.

Paragraph 109 recognises that the planning system should aim to conserve and enhance the local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 118 states that if 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, and that opportunities to incorporate biodiversity in and around developments should be encouraged. In line with the requirements of the south east river basin management plan, we seek the removal of culverts wherever possible to re-establish river and bankside habitat and the continuity of the watercourse corridor.

In this case, there may be an opportunity to restore the River Dour through the site. However, the proposed development as submitted is on the line of the culverted watercourse and, if permitted, would preclude any future potential to remove the culvert and naturalise the water course.

This objection is also supported by our policy on culverting watercourses because this development would preclude future options to restore the watercourse. We have a long-held aspiration to achieve fish migration in the River Dour. Culverts create a barrier to the movement of fish.

It may be possible to overcome this objection if, preferably, the development were to include plans for re-instating an open watercourse within the site or if the development is set back at least 10 metres from the centre-line of the culvert.

Not only is the River Dour in this location is a designated 'main' river under our jurisdiction for flood risk management purposes, it is also a designated waterbody under the Water Framework Directive (WFD), for which we are the competent authority. The River Dour is currently classified as Poor under WFD. One of the reasons that the health of the River Dour is not as good as it should be is the fragmented nature of the river.

Dover's Local Plan recognises the importance of the River Dour as a central but underplayed structural feature of the town. It states: 'Public access to the river is fragmented and many existing developments have turned their frontages away from it, rather than making it an integral feature. The river also poses flood risk issues which will have an influence on development proposals. Water quality is also an issue. Some past developments have involved culverting over the river which has harmed water quality and wildlife. In combination, these issues result in both a need and desire to give more prominence to the river and allow it to fulfil its potential to help make Dover a distinctive place.'

Dover Core Strategy Policy DM18 states: "Development proposals that affect the setting of the River Dour should, wherever possible, ensure that they create a connected active river frontage, improve public access and enhance wildlife interest." We believe the proposals for 62 Castle Street run contrary to this policy.

The EA should be consulted should the application be recommended for approval.

Further comments received 3rd August 2018:

We appreciate that our objection to the proposal may not outweigh other benefits that the planning authority can identify in this case. We are however unable to remove our objection as this would go against our guidelines and our statutory role in the planning process. Through developing the ground above the existing culvert, any restoration of this stretch of river is eliminated.

In the event that there is a decision which contradicts our recommendations, we would suggest that the developer mitigate to loss of opportunity by providing contribution for other river habitats within the catchment. We would propose funding towards at least one of the below listed river restoration/enhancement or climate change resilience project:

- Fish passage at Halfords weir
- Restoration at Barton path
- Long term funding for the river warden scheme lead by WCCP

KCC SUDS – At the detailed design stage, we would expect to see the drainage system modelled using FeH rainfall data in any appropriate modelling or simulation software. Should the Local Planning Authority be minded to grant permission for this application, conditions are recommended.

Southern Water – Public sewers must be protected from the development, with the exact position of public sewers. There should be no new soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public sewer, rising main or water main. It is recommended that a condition be attached to ensure the protection of public sewers.

Southern Water can provide foul and surface water disposal to service the proposed development. A condition should be attached to require details of foul and surface water infrastructure to be provided.

NHS – Any increase in the local population has a knock-on effect in terms of health care and SKCCCG would seek to apply this s106 contribution to meet these extra demands placed upon the local primary care health service. St James Surgery, Harold Street. St James' would benefit from enhancements to improve accessibility to the site for patients. The current entrance is at the top of a steep slope, however a side entrance could be made available to allow ground floor entry with the installation of a patient lift. A contribution of £360 per occupant of the development is sought, totalling £20,160 to for a patient lift.

Kent Police – The applicant/agent has not demonstrated that they have considered crime prevention and have attempted to apply the seven attributes of Crime Prevention Through Environmental Design in their submitted on-line plans or Design and Access Statement. To date we have had no communication from the applicant/agent and there are design issues that need to be discussed and addressed.

The Dover Society – Neutral.

Delighted to see the owners of this eyesore submit a planning application and are pleased with the materials in the plans. However, concern is raised regarding: the overall height of the building; the density of residential units and on-street parking; the potential for retail units to remain empty (maybe a leisure activity or piazza with a glass floor could be provided).

Dover Chamber of Commerce – Support. It is important that Dover seizes the opportunity to improve the built environment of the town, to provide attractive residential accommodation for workers and to support retailers able and willing to take advantage of the purchasing power offered by the substantial number of ferry passengers passing through the port which numbered nearly 12 million in 2017.

The St James' development is contiguous to Castle Street. Dover District Council has been notably successful in attracting investment into this scheme which now has the capacity to act as a magnet to revive the town centre retailing.

The current derelict site is a significant disincentive to inward investors and to customers of the new outlets alongside. The development will make a significant contribution to the regeneration of the areas as well as providing much needed accommodation. Placing residential units above shops and offices also serves to enhance street-level security. Making the street scene more attractive will promote the local economy.

The housing mix is appropriate, in accordance with policy CP4. The scheme would rank as 'very good' under BREEAM, although this rating seems harsh.

The limited car parking is a valid concern; however, it is difficult to conceive of a viable scheme for the site if a large area of ground floor parking or underground parking were provided.

A 20% allowance for climate change should be applied rather than the 40% required in respect of flood risk.

Dover Town Council – *Initial response received 22nd June 2018:*

Support

Further response received 13th December:

Neutral. The Town Council supports the development of the site, but the design should also be amended to take account of the advice from Historic England on the views and nature of an historic conservation area. In addition, the advice from the Designing Out Crime Team to create a safe area for residents and limit anti-social behaviour.

Public Representations – Six objections have been received, raising the following points:

- The River Dour should not be ignored or hidden
- The development of the site presents an opportunity to completely open up the river at this location
- Damage to the river bed should be avoided
- The development would cause harm to the setting of listed buildings and the conservation area
- Lack of car parking
- Lack of affordable housing
- The roof terrace would cause noise pollution to neighbours
- The building would be an eyesore
- The development would lead to more empty shops in the town centre
- Loss of views
- Loss of light
- Increased traffic
- The building would further separate the St James' development from the town

One letter of support has been received, raising the following points:

- Dover has turned a corner in regards to regeneration
- Recent building activity and inward investment has allowed Dover to emerge as a very attractive destination to invest and deliver transformational change over the next 5-10 years
- The planning application for Castle Street offers a further opportunity to keep the current momentum going and should be supported.

Two neutral comments has also been received, raising the following points:

- Supportive of on-going regeneration in Dover
- Provision of high quality housing
- The building is too high
- There is no need for office floor space
- Inadequate parking provision
- Whilst the building is inoffensive, it misses an opportunity to produce an unashamedly modern building
- Difficulty turning within the site
- The building straddles the River Dour

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

- 1.1 The site lies within the settlement confines of Dover and within the Town Centre. Immediately to the west of the site, the ground floor units are identified as being a secondary shopping frontage, where uses should be restricted to A1, A2, A3, A4 and A5 uses. The River Dour passes under the site in a culvert.

- 1.2 The site lies in a central location between the primary shopping frontages on and around Cannon Street and the St James' Retail and Leisure Park. The site has three 'frontages'; to Castle Street to the north; to Dolphin Passage to the east; and the St James' to the south. The site had been occupied by the Snoops nightclub (former Granada Cinema), until it was demolished to ground level in 2014. Since then, the site has not been in use and is surrounded by hoardings.
- 1.3 To the east of the site, Castle Street is predominantly characterised by three or three and a half storey Georgian and Victorian terraced townhouses, many of which have historic shop fronts. However, to the west of Dolphin Passage and Stembrook, the character changes markedly, with mid-C20th blocks of flats of four storeys (although the building containing no.'s 64 to 68 (even) has an additional storey over part of the building). These buildings contain commercial uses at ground floor level and residential uses above. Beyond Castle Street, the area contains an array of building styles, whilst building heights range between two and five storeys. The St James' development is a notable intervention in the townscape, presenting an overtly distinct character.
- 1.4 The application seeks permission to erect a six storey building containing commercial uses at ground and first floor levels and residential uses at second, third, fourth and fifth floor levels. To the ground floor, uses would be flexible between retail, financial and professional services, restaurants and cafes and drinking establishments. The ground floor would also provide areas for commercial and residential refuse storage, bicycle storage, a service yard including four car parking spaces with a car turntable and a plant room. At first floor level, these uses would be complemented business uses falling within use class B1 (typically offices or similar). The residential floors would provide accommodation for twenty-eight flats comprising eight one-bed, eighteen two-bed and two three-bed flats. Whilst six storeys in height the 'footprint' of the floors would reduce as the building ascends.

2. **Main Issues**

2.1 The main issues are:

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

Assessment

Principle

2.2 The site lies within the settlement confines of Dover, and within its defined town centre, and, as such, the principle of the development is acceptable, being in accordance with Dover Core Strategy Policy DM1. Moreover, the NPPF supports a positive approach to the growth, management and adaption of town centres, which should be at the heart of local communities. The NPPF also recognises that residential development often plays an important role in

ensuring the vitality of centres and encourages residential development on appropriate sites. It is therefore concluded that the development is positively supported by the NPPF.

Economic Impact

- 2.3 An important element of the case for the development is its economic benefit. The applicants Planning Statement advises that this site forms a 'pivot' between the St James' development and the historic town centre. The development would also provide regeneration to this vacant plot to enhance the attractiveness of this part of the town.
- 2.4 Town centres across the country have been in decline for many years and Dover is no exception. The Core Strategy acknowledges that Dover has seen increasing competition from centres in Canterbury, Westwood Cross and, to a lesser extent, Folkestone, with the town centre proving unpopular (albeit this assessment predates the St James' development). The Core Strategy continues, by saying that the town lacks "modern buildings of interest or stature which could themselves become symbols of Dover in the future". The councils Corporate Plan (whilst not planning policy) identifies that a key priority is to continue the district's regeneration programme, with particular focus on the St James' development and Dover Waterfront areas. The St James' development has provided a landmark regeneration of a significant area of the town, providing high quality, modern retailing, leisure uses and restaurants which have transformed the offer of the town. Whilst a success, the benefit to the historic town centre has been limited, in part due to the attractiveness of connections between the St James' development and the historic town centre.
- 2.5 The proposed development would replace a vacant plot, which is surrounded by hoardings and has attracted waste and fly-tipping, with a building containing active commercial frontages. It is considered that this would enhance the attractiveness of the route between St James' and the town centre and increase the potential for linked trips and footfall past businesses in the town centre. The potential benefits to the town centre have been recognised by the Council's Head of Inward Investment and the Dover Chamber of Commerce both of whom have supported the application. In doing so, the Dover Chamber of Commerce have commented that the development could "act as a magnet to revive the town centre retailing" whilst "the current derelict site is a significant disincentive to inward investors and to customers of the new outlets alongside. The development will make a significant contribution to the regeneration of the areas as well as providing much needed accommodation". It is considered that the potential regenerative benefits of this development, which extend well beyond the site itself, are compelling and attract great weight in favour of the development.
- 2.6 Notwithstanding the above, the development itself would provide flexible commercial floor space at ground and first floor levels within a modern building. Whilst there is vacant commercial floor space within the town centre, the development would provide floor space of a type which is not well-catered for at present (i.e. floor space within a modern building designed to meet the needs of businesses and with flexibility in terms of unit size, use class and fit-out). Consequently, the floor space would be attractive to businesses. The development would provide both short term (jobs in construction) and long term (jobs created by businesses) direct economic benefits, together with the indirect economic benefits of increasing the population in a sustainable town

centre location and increased spending in the local economy. These benefits add further weight in favour of the development.

Character, Appearance and Heritage

- 2.7 Regard must be had for how the development would impact upon the heritage assets which are within the vicinity of the site, and their settings, having regard for the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 'Act'). Section 66(1) of the Act states that, 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.' As such, it is necessary to have 'special regard' for whether the development would preserve the listed buildings in the vicinity and their settings. Section 72(1) of the same Act, requires that 'special attention' is given to the desirability of preserving or enhancing the character or appearance of a conservation area. Additionally, the NPPF requires that regard must be had for whether the development would harm the significance of both designated and non-designated heritage assets and, where harm is identified (either substantial or less than substantial), consider whether this harm is outweighed by public benefits.
- 2.8 There are no listed buildings within or directly adjacent to the site and the site is not within any Conservation Area. However, the majority of buildings on Castle Street (those to the north east of No.60) are listed, whilst this area of listed buildings also signifies the boundary of the Dover Castle Conservation Area. To the west, the Dover Town Centre Conservation area extends along the northern edge of the Market Square and to the east of Church Street. The Façade of the Market Hall (The Dover Museum and Tourist Information Centre) and St Mary's Church, to the south east and north east respectively, are both listed. Views of the Castle are also prominent from some areas around the site, most notable along Castle Street. The broad area of the castle is a Scheduled Monument, whilst the site includes a number of individually listed buildings (including the outer curtain wall and St Mary's Church). Historic England, in their initial consultation response, providing a very useful summary of the character and importance of the area, as follows:
- "62 Castle Street lies in part of the historic core of Dover. The street was first established in the 1830s as a continuation from the market place. Its historic nature is evident by the large number of 19th century terraced houses which survive on the street. The eastern part of Castle Street lies in the Dover Castle Conservation Area and the Dover Town Centre Conservation Area is nearby, with 62 Castle Street lying between the two. Dover Castle Conservation Area is focussed on Dover Castle and includes the surrounding, primarily 19th century, development. The Dover Town Centre Conservation Area is centred on Cannon Street, the market square and Biggin Street and contrasts with the Dover Castle Conservation Area as it forms an urban town centre comprising principally of 19th and early 20th century buildings. Castle Street forms a sight line between the market square and the castle which historically inspired artists and photographers, and as such is a significant remnant of the town's historical development and of the Conservation Area".
- 2.9 The proposed building would be six storeys in total, although the upper two floors would be set in from the main elevations of the building (and be finished

in a different material) to reduce its prominence and perceptibility in views from the surrounding area. The fourth floor would be set in from the main elevations by around 2m, whilst the fifth floor would be set in a further 2.5m to the south, 5m to the east and 4m to the south (these distances relate to the over sailing roofs, with the elevations of these floors set back even further). The main four storey element of the building corresponds to the scale of the main elevation of the neighbouring No.'s 64 to 68 Castle Street, whilst the fourth floor corresponds to the height of the various built elements on the roof of No.'s 64 to 68. Consequently, in building is approximately one storey taller than its direct neighbour. As set out in the Historic England response other buildings in Castle Street and in the historic surrounding area are typically three storeys, although it is noted that a number of four storey buildings are also present.

- 2.10 The building has been designed in a modern style, with large plate glass windows at ground and, to the eastern and southern elevations, first floor levels with asymmetric glazing bars. Timber boarding is proposed to either side of doorways, above which (to the Dolphin Passage elevation) is dark grey metal cladding, which will provide relief from the expanse of brickwork and more of a vertical emphasis to this elevation. Above, the larger windows at ground and first floor, the windows are smaller and more residential in scale. The fourth and fifth floors would be well set in from the 'main' elevations of the building with overhanging roofs.
- 2.11 Due to the setbacks of the fourth and fifth floors these floors would be little seen in close views of the site from the immediate environs of the site. However, potential views of the upper storeys would be gained from more distant viewpoints. In these close viewpoints, therefore, the development would appear as a four storey building with a roof terrace, the scale and form of which would sit comfortably with the No.'s 64 to 68 Castle Street. Whilst it would be more dominant in the street compared to the three storey No. 60 Castle Street, it is not considered that this would be visually harmful, given that there would only be an appreciable difference of one storey and given that its appreciable height would be consistent with Stembrook Court opposite the site. It should also be borne in mind that the former building on the site rose to a similar height as the building now proposed, having 'main' front elevation which rose to the same height as No.'s 64 to 68 and then a further storey, with a pitched over, set back from the 'main' front elevation. It is therefore considered that the scale and massing of the development would cause no harm to the character and appearance of the area, or the significance of heritage assets, in close proximity to the site, including the Castle Street and Dolphin Passage street scenes.
- 2.12 As you move further away from the site, the development, and its upper floors, becomes more prominent. Initial comments from Historic England (which DDC Heritage concurred with) raised concern that the impact of the development could not be fully understood without the submission of an addendum to the Heritage Statement to assess the impacts of the development from various viewpoints. Subsequently, such an assessment was submitted. However, following a review of this additional information, Historic England and DDC Heritage concurred that, when stood adjacent to 7 Dickens Corner (slightly further to the north than the viewpoint chosen in the submitted addendum), the development would impinge on the view of the Castle. The consultees also agree that this would cause less than substantial harm to the Dover Castle Conservation Area and views up to the Castle (a Scheduled Monument that also contains listed buildings) from Castle Street and Market Square.

- 2.13 Following visits to the site, it is clear that the view of the Castle above the town gained along Castle Street is an intrinsic part of Dover town centres (and the Dover Castle Conservation Area) character. The view is therefore very important. This must be balanced against the limited field of view that can be gained of the Castle and where the proposed development would interfere with this view. For example, in no view would the development obscure views of the keep; however, outside 7 Dickens Corner, views of parts of the outer curtain wall, Colton's Gate and the tower of St Mary's Church, would be obscured. Whilst the harm is therefore limited (Historic England describe the harm as 'low level'), it is agreed that less than substantial harm would be caused. The NPPF requires that, where such harm is identified, "this harm should be weighed against the public benefits of the proposal".
- 2.14 The rear (east) of the development would be plainly visible from and across the car park serving St James'. This elevation would be seen adjacent to the tall (due to its large parapet) two storey building, Unit 1C, which is occupied by Costa and Anytime Fitness to its right hand side and the rear elevation of No.'s 64 to 68 Castle Street, which are four, part five, storeys in height, to its left. The development would be built off the side elevation of No.64 which currently presents a blank façade which has been temporarily covered in black sheeting following the demolition of the former Snoops building. The building would also conceal views across the site towards Stembrook Court. It is considered that some enhancement would be gained by providing a building in this location, as it would prevent views of the unattractive rear and side elevations of No.64 Castle Street. The design of the building positively references the yellow brickwork and window proportions of the St James' development, such that it would complement the cohesive design of the scheme. The use of materials would alter to the western (left hand) side of this elevation, where the height would also decrease to three storeys, to provide a transition to the rear elevation of No's 64 to 68 which comprises expanses of unrelieved brickwork. To provide concealment, and to provide an alternative to a continuation of the brickwork, the application proposes dark grey cladding, with a section of lighter grey cladding, whilst at ground floor level, this section would be timber boarded. It is considered that that choice of materials responds to the larger buildings in the St James' development and is successful in avoiding a monotonous use of brickwork.
- 2.15 The development would be seen in longer views from the north east along Stembrook, however, no visual harm would be caused due to the angle of view being sufficiently limited and the context of view, which would include Stembrook Court. Views would also be gained from the area around No. 21 Market Place (and the listed façade of the Dover Museum and Tourist Information Centre). However, these views would be over a three storey section of Dolphin House, between the four storey 64 to 68 Castle Street and the remainder of Dolphin House which is also four storeys in height. Given the very limited nature of this view, it is not considered that harm would be caused. The site would also be visible in views from either side of the valley (from Dover Castle and from Western Heights). However, given the distance at which these views would be taken, it is not considered that the development would be prominent and would not, therefore, cause harm to views from these points or the settings of heritage assets, particularly as the building would be seen in the context of many large, C20th buildings. It is not considered that the development would cause harm from any other viewpoint.
- 2.16 In terms of its design, it is considered that the building would be overtly modern in the street scene. Whilst such an approach could, in some

circumstances, be inappropriate, it is considered that in this location this approach is correct. This conclusion is reached as the building is located between two very different styles of building: to the east is the austere mid-century design of No.'s 64 to 68 Castle Street, whilst to the west there are the simple, traditional, late Georgian/early Victorian listed terraces. Whilst these two styles are at odds with each other, the use of brick, horizontal banding (plat bands or copings etc.) and fenestrations with a regular rhythm provide some unity. The proposal would replicate these features, being constructed of brick, having a coping to the top of the third floor and having a regular, repeating, fenestration. The floor to ceiling heights would be consistent with No's 64 to 68 Castle Street and would therefore sit comfortably with this building.

- 2.17 This design would be continued along the less prominent Dolphin Passage elevation, where views of the upper parts of the building would be restricted by the narrow width of the road. However, at ground floor level, the addition of timber boarding around entrance doors would add some visual interest to passers-by. The corner of the Dolphin Passage and St James' elevations provides, at second and third floor levels, vertical 'solar fins' which would splay out from the rounded corner. This is a new architectural feature for area, which is considered to be appropriate by reason of its location adjacent to the new St James' development. In this context, this innovative feature will add significant interest to the building. The St James' elevation would continue the principles of the other two elevations, before changing to the transitional metal clad part of the building. As set out above, it is considered that this change is necessary to provide a variation from brickwork, due to the expanse of brickwork to the rear of No.64 to 69 Castle Street. This element would, however, continue to relate positively to the rest of the building, due to the furtherance of the fenestration used elsewhere. Whilst it is therefore considered that the detailed design of the building is acceptable there should be, recognising the concern raised by consultees, a need to ensure that the palette of materials and detailed design is appropriate. It is therefore considered that conditions should be attached to any grant of permission to require; samples of materials; full details of the window frames and glazing bars; details of window reveals; details of coping and window surrounds; details of railings to balconies; and details of hard and soft (planting to balconies) landscaping.
- 2.18 Overall, it is concluded that the development would provide some visual enhancement of the townscape, particularly when viewed from Dolphin Passage and St James', whilst there is a clear benefit in regenerating the site and tidying up what is currently a significant detractor from the character of the area. Whilst the design of the building is considered to be acceptable, subject to conditions, it is inevitable that a building of this scale will be prominent in some views. This scale results from a need to provide a scheme which is viable; however the required height does impact upon the setting of designated heritage assets, namely views of Dover Castle and the setting of the Conservation Area and Listed Buildings. This harm must be weighed against the public benefits of the proposal when considering the application in the round, having regard for the Statutory Duty on Local Planning Authorities to have 'special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses'.

Impact on Residential Amenity

- 2.19 The site lies in the town centre where, typically, ground floors are in commercial use and upper floors are in residential use. To the north of the

site, across Castle Street, is Stembrook and to the west is 64 to 68 Castle Street. These properties conform to the residential over commercial character.

- 2.20 To the east is 60 Castle Street, No.'s 2 and 4 Dolphin Passage, which include ground and upper floor residential uses and, within the St James' development, Unit 17 which is in commercial use. To the south is the car park for the St James' development. Other properties, for example those on King Street, are considered to be sufficiently distant from the site so as to not be significantly affected by the development.
- 2.21 Stembrook Court lies to the north of the site on the opposite side of Castle Street. It contains commercial floor space at ground floor level with three storeys of residential space above. The building would be around 12m away from the proposed building, with windows in the elevations to both Stembrook Court and the proposed building. Due to the relative heights and massing of buildings, and their separation distance, some loss of light (likely late morning) and sense of enclosure to the first and second floor flats in Stembrook Court would occur, although this impact would be minor whilst the third floor would not be significantly affected.
- 2.22 The development would not protrude forward of the front elevation of No.'s 64 to 68 Castle Street and so would have no impact on the windows in the front elevation of that building. The side elevation of No.64 contains no windows or other openings and so would not be affected. The proposed development would wrap around part of the southern side of No.64 which does contain windows, some of which (to upper floors) serve residential properties. The proposed building has responded to this by limiting the height of the proposed building in areas which would have the greatest impact on these windows. Whilst a degree of loss of light and sense of enclosure would be caused, this would largely affect relatively small windows serving the ground floor retail unit and would not cause an unacceptable impact on other windows.
- 2.23 No.60 Castle Street and No.'s 2 and 4 Dolphin Passage are located the closest to the application site, being around 5m to the east. At present, windows within these properties facing towards the site enjoy a separation distance of around 30m to No.64 Castle Street across the application site. These properties include ground floor residential uses. Given the close proximity between these properties and the proposed development, it is clear that a loss of light and sense of enclosure, together with interlocking between windows in the two buildings, would be caused. This is considered to weight against the development.
- 2.24 The application has been supported by a Daylight and Sunlight Assessment which concludes that, whilst there will be some impact on neighbouring properties, the reduction in daylight to the majority of windows will not be noticeable whilst the reduction in sunlight would be within the limits prescribed by BRE Guidelines for the majority of windows. Whilst some windows would experience a noticeable change, described as moderate in the assessment, they would continue to receive a reasonable degree of sunlight and daylight. These findings are broadly consistent with the assessment above, insofar as it relates to sunlight and daylight.
- 2.25 It is noteworthy, although not determinative, that the site had, until relatively recently, contained a building of comparable size to that which is now proposed. Although this building has now been demolished, it demonstrates that the light levels reaching properties and the outlook from windows are

relatively recent gains. It is considered that this a material consideration when assessing the weight to attribute to the loss of light, sense of enclosure and overlooking which would be caused.

- 2.26 Whilst the applicant's Daylight and Sunlight Assessment demonstrates that the impact on neighbouring properties would be limited, it is nonetheless considered that some harm would be caused, which must be weighed in the planning balance.
- 2.27 The construction phase has the potential to cause unacceptable impacts on the living conditions of neighbours, particularly given that the building would directly abut No.64 Castle Street and would be in close proximity to the properties to the eastern side of Dolphin Passage. Consequently, Environmental Health have recommended that, should permission be granted, a condition be attached requiring that a Construction Management Plan be submitted for approval. Subject to such a condition, it is considered that impacts from this phase could be suitably mitigated.
- 2.28 Turning to the living conditions of future occupiers, all flats would be of reasonable size and would be naturally lit and ventilated. Whilst some rooms would, by virtue of their relationship with No.64 Castle Street have a more limited outlook, it is not considered that this would result in significant harm. A moderate degree of overlooking would occur from the upper floors of Stembrook Court, however, it is not considered that this impact would be unacceptable. A separate refuse storage area for the residential units would be provided at ground floor level. Environmental Health have raised concerns that the arrangement of residential flats and their relationships with the commercial areas and each other could result in unacceptable noise and disturbance to future occupiers. However, they have advised that this could be mitigated by attaching conditions to any grant of permission requiring the provision of sound insulation between commercial and residential uses and between residential uses. For these reasons, and subject to conditions, it is considered that the living conditions of future occupiers would be acceptable.

Impact on the Local Highway Network

- 2.29 The proposed development would have one vehicular access, from St James Lane (through the St James' development). The access would link to an existing access road providing circulation around the car park. Being adjacent to a 90 degree bend in this road, vehicle speeds at this point are relatively slow. Whilst visibility splays are not shown on the submitted drawing, it is noted that the access is approximately 3.8m wide. The majority of vehicles would exit roughly centrally, in order to avoid the damage to vehicles and, as such, would have a reasonable degree visibility out of the access. Delivery, refuse and emergency vehicles would not need to gain access to the site and would instead temporarily stop on the internal access road in the St James' development. Kent Fire and Rescue and KCC Highways have raised no objections to such an arrangement. It is recommended that, should permission be granted, a condition should be attached to ensure that such vehicles do not use Dolphin Passage or Castle Street, which would cause an obstruction.
- 2.30 Policy DM13 of the Core Strategy requires developments to provide sufficient car parking, having regard for the scale of the development and its location. DM13 does, however, acknowledge that car parking provision should be design-led. The site is considered to be in a town centre location. In such locations, Table 1.1 of the Core Strategy advises that dwellings should be

provided with a maximum of one car parking space per dwelling, whilst visitor parking can be accommodated within public car parks. However, footnote 1 of Table 1.1 advises that within Town Centre locations reduced or even nil provision is encouraged in support of demand management and the most efficient use of land. The commercial uses would also generate a need to travel to and from the site.

- 2.31 The development would incorporate four car parking spaces at ground floor level, one of which has been designed to accommodate disabled users. Given the tight turning area available, the application includes a car turntable to allow vehicles to turn within the site and exit in a forward gear. Whilst the car parking on site is very limited, in accordance with advice from KCC, it is considered that this is acceptable, given the highly sustainable location of the development. The site is close to all of the day-to-day facilities and services required to meet the needs of occupants and users of the development, whilst the nearest bus stops providing frequent services are less than 100m away and the nearest train station providing mainline and High Speed services is less than 800m away. The St James' car park is adjacent to the site, whilst the Stembrook public car park is around 75m away. Consequently, it is concluded that the site is capable of accommodating low car/car free development, in accordance with the government's objectives to promote sustainable transport and make efficient use of land. It is important to clarify that the provision of additional car parking would further erode the viability of the scheme, as parking spaces do not significantly increase sales values and require significant floor space.
- 2.32 An area of around 42sqm would be provided for cycle parking and refuse parking. It is not clear how this space would be subdivided or what proportion of the space would be given over to each use. However, it is considered that the size of the area is sufficient to provide adequate provision for both requirements. However, given the uncertainty as to the detail of provision, it is considered that conditions should be attached to require full details of both refuse and cycle provision.
- 2.33 Stagecoach have advised that early discussions have taken place to improve the Market Square, which may mean that the bus stops need to be relocated to Castle Street. Although there is no specific project in place at this time, Stagecoach have requested that the development should not prejudice the future relocation of the bus stops. The proposed building would be in line with the front elevation of 64 to 68 (and behind the protruding canopy of these neighbours), being set around 1.8m inside the application site area. Consequently, the development would retain the existing width of the pavement, which is more than capable of accommodating bus stops or a bus shelter (albeit the relocation of bus stops would, in themselves, likely require changes to the footpath, kerbs and on-street parking). Moreover, as the entrance to the ground floor commercial unit which fronts Castle Street is located at the junction of Castle Street and Dolphin Passage, the location of this entrance would not prejudice the location of a bus stop along the Castle Street frontage.

Archaeology

- 2.34 The site lies in a very sensitive location in terms of the potential for archaeological remains. The site lies within a former estuary at the mouth of the River Dour. Any deposits would likely be waterlogged and therefore, due to the potential for organic matter to be preserved, of great

palaeoenvironmental interest. Wooden structures and artefacts may also be preserved. It is from deposits such as this that the internationally important Dover Bronze Age Boat was discovered around 160m to the south. It is also said that a log canoe was discovered on the opposite side of Dolphin Passage. Evidence of Roman harbour installations were found 45m to the south-east of the site, whilst evidence of a piled timber quayside and jetty were observed in the 1950's at Stembrook Court opposite the site. The precise arrangement of Roman harbour and quay facilities is not understood, and it is possible that harbour related structures or other maritime features of Roman date may be present within the proposed development site. During the construction of the St James' development, unabraded Roman pottery and Anglo-Saxon coin were found immediately overlying marine lain sands.

- 2.35 Medieval and post-medieval occupation gradually extended across much of the former estuary/harbour basin as streets were laid out and buildings erected, with numerous Norman and post-Norman finds close to the site, including a vaulted medieval structure to the west on Castle Street and possible medieval floors and surfaces on the opposite side of Dolphin Passage. It has been suggested, although remains unproven, that the line of Dover's medieval town walls may have run through or close to the site, with the foundations of a possible tower having been recorded a short distance to the south. Castle Street itself is of post-medieval date and there have been numerous discoveries related to this period.
- 2.36 Due to the great potential for archaeology at the site, and the potential for that archaeology to be highly significant, KCC Archaeology initially requested that archaeological field evaluation take place prior to the determination of the application, to allow the full potential for buried Archaeology to be understood at the decision making stage and for any archaeology to be preserved in situ.
- 2.37 The applicants raised concerns regarding undertaking archaeological fieldwork prior to determination and it is acknowledged that this would present significant upfront costs and delay, against a backdrop of perilous financial viability. The applicants have advised that the foundation design will comprise a degree of flexibility around the location of any piling, whilst the stair/lift core could be moved to an alternative location (as part of a non-material amendment), if required in order to preserve archaeology in situ. The applicant is fully aware of the requirement to undertake post planning decision survey work to discharge planning conditions prior to commencing development and is also cognisant of the obligation to fund the archaeological works in order to bring forward the development on the site.
- 2.38 In response, whilst KCC Archaeology have advised that they would prefer to see pre-determination archaeological fieldwork, they are satisfied that the applicant has provided confidence that the scheme can be augmented to response to archaeological constraints post-determination. Consequently, subject to a suite of three conditions being attached, no objection is raised. These conditions would require:
- 1) That a scheme of archaeological field evaluation takes place in accordance with an agreed specification and timetable and that further investigation and recording or preservation in situ is secured, as appropriate, following evaluation.
 - 2) Within 9 months of the completion of on-site archaeological work, a post excavation assessment report is submitted for approval, which

shall include a timetable for further analysis, publication and archive deposition.

3) Details of foundation design are submitted for approval.

2.39 Whilst it is agreed that, ideally, archaeological field work should take place prior to determination, in order to ensure that the archaeological impacts of the development are known at the outset, with any alterations required to the foundations and excavations being made before determination, it is considered that the conditions proposed by KCC Archaeology provide the required surety that the development would not cause significant harm to archaeological remains, in accordance with the NPPF.

Flood Risk and Drainage

2.40 Parts of the site lie within Flood Risk Zones 2 and 3. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, the development should be made safe without increasing the flood risk elsewhere. Where development within areas at risk of flooding is proposed, the NPPF requires that the Sequential Test is applied and, if necessary, that the Exception Test is applied.

2.41 The aim of the Sequential Test is to steer development to areas with the lowest risk of flooding. However, development may be permitted where there are no reasonably available sites which are appropriate for the development in areas with a lower probability of flooding.

2.42 A Sequential Test has not been undertaken by the applicant, albeit the submitted Flood Risk Assessment advises that the site itself has been sequentially tested and, consequently, the more vulnerable residential uses have been located to the upper floors. Whilst this approach is not consistent with the NPPF, it is considered that due to the unique nature of this development, there is little alternative but to locate the development on this site. The development comprises main town centre uses at ground and first floor levels, limiting the scope of the search area to town centre locations. Furthermore, the amount of development being applied necessitates a tall building, which itself necessitates a site adjacent to other tall buildings (in this case the 64-68 Castle Street), again limiting the search area. Finally, a unique proposition of the application is its role in facilitating enhancements to the route between the St James' development and the town centre. No other sites could achieve this. Whilst the sequential assessment of this site is unorthodox, it is considered that the circumstances of this applicant warrant such an approach. Planning Guidance also recognises that flexibility and pragmatism may be applied in circumstances where there is a need for regeneration. For these reasons, and in accordance with the NPPF, there are no "reasonably available site appropriate for the proposed development in areas with a lower risk of flooding" and, therefore, the sequential test is passed.

2.43 In accordance with the Planning Practice Guidance the Exception Test must also be applied to More Vulnerable development (dwellings and public houses), although it should not be applied to Less Vulnerable development (e.g. shops, offices, restaurants). The Exception Test comprises two parts.

2.44 Firstly, it is necessary to consider whether the development would provide wider sustainability benefits to the community. As demonstrated by the

support received from the council's Head of Inward Investment and the Dover Chamber of Commerce, and for the reasons set out earlier in this report, the development would deliver significant regenerative benefits to this part of Dover, providing a more attractive route between St James' and the town centre, redeveloping a vacant plot which has attracted rubbish and providing employment and housing in a highly sustainable location. It is therefore considered that the first part of the Exception Test has been passed.

2.45 The second part of the Exception Test requires that the development be safe for its planned lifetime, taking account of the vulnerability of its users, without increasing the risk of flooding elsewhere. Where possible an overall reduction in flood risk should be sought. The More Vulnerable residential uses have been located at second floor level or above, well above the design flood level. The occupiers of the residential units would therefore be safe from any flooding. At ground and first floor level, all uses with the exception of Use Class A4 Drinking Establishments would be Less Vulnerable. Whilst A4 uses could occupy the ground floor, the floor level would be 200mm above the design flood level whilst flood resistance and resilience measures could also be incorporated. It is considered that, subject to details of the measures to be incorporated at ground floor level being secured by condition, users of the development would be safe over the developments planned lifetime. Moreover, given the management of surface water (which will be explained below), compared to the existing lack of management of surface in the context of a non-permeable surface to the site, the development would not increase the risks of flooding elsewhere. Therefore, the Exception Test has been passed.

2.46 The existing site is predominantly non-permeable, being largely covered by concrete. As such, the development would be unlikely to significantly increase surface water run-off. However, it would be appropriate to ensure that the proposed development is served by suitable surface water drainage, in accordance with the clear requirement in the NPPF that major development should incorporate sustainable drainage systems except in exceptional circumstances (paragraph 165). The development would also need to be served by adequate foul drainage infrastructure which avoids increasing the risk of flooding on site or elsewhere. Given that the development would occupy the entire footprint of the site, it is not considered that infiltration is feasible. As such, the submitted Surface Water Management Strategy advises that both surface water and foul water will discharge to the public sewer, albeit the site will accommodate a 'blue roof' system to slow down the flow of rainwater and manage its discharge to the sewer to a rate of no greater than 9.6l/s during a critical storm. Southern Water have raised no objection to the application, but have advised that the drainage system will need to be appropriately modelled whilst recommending that conditions should be attached requiring full details of surface and foul water drainage. It is considered that such conditions are reasonable and necessary, although it is also considered that a timetable for the provision of this infrastructure should also be required by condition.

Contamination

2.47 The application has been supported by a Contaminated Land Assessment. This assessment, which has considered the former uses of the site and the likelihood of contamination being encountered during construction or which could be a risk to human health or the environment. The report concludes that there is a low risk of significant contamination on the site due to its former

uses. However, it does conclude that off-site uses present a moderate risk of contamination to the site. The report therefore recommends that intrusive investigations take place, including sampling and testing of material. Environmental Health have advised that, concurring with the recommendations of the report, conditions should be attached to any grant of permission to secure the recommended contamination work, together with remediation and verification of remediation as necessary.

Contributions

- 2.48 Core Strategy Policy DM5 requires that for schemes of more than 15 dwellings an on-site provision of affordable housing, amounting to 30% of the dwellings proposed, will be required. The policy also acknowledges that the exact amount of affordable housing, or financial contribution, to be delivered from any scheme will be determined by economic viability, having regard to individual site and market conditions.
- 2.49 Policy CP6 requires that development which generates demand for additional infrastructure will only be permitted if the necessary infrastructure is either in place or where it can be provided. Policy DM27 requires that developments contribute towards the provision of open space to meet the needs which will be generated by the development. However, no requests for contributions have been received for infrastructure such as schools, libraries etc. or for open space provision. A request has been received from the NHS who have requested £20,160 for the installation of a patient lift at St James' Surgery, Harold Street. However, no evidence has been provided as to how the figure of £360 per patient has been reached or how the provision of a lift would increase the capacity of the surgery to meet the additional need generated by this application. In the absence of this information, it is not considered that the request is CIL compliant and cannot be sought.
- 2.50 The application has been supported by a viability statement which seeks to demonstrate that the development cannot support the provision of affordable housing or contributions, making a substantial loss. In accordance with the Council's normal practice, and having regard for the Affordable Housing SPD, the council appointed an independent viability consultant to review the applicant's report.
- 2.51 The council's viability consultant questioned a number of the assumptions made within the submitted statement and sensitivity tested the applicant's viability appraisal.
- 2.52 The consultant undertook their own research into the local housing market to establish whether the sales values proposed were reasonable. The report valued the development at just under £7.5million, valuing the residential units at an average of around £207,000 and the commercial floor space at just under £1.5 million. The consultant advised that whilst they had found insufficient data on new build flats in the area over the last two years, they had increased the predicted sales values of the flats to accommodate for this, concluding that the applicant's valuation of sales values is within reasonable parameters for the area. The retail floor space was also compared to recent lettings in the area. The applicant values the commercial floor space at £107.64 per square meter. The average rate in the area is £92 per square meter and, as such, the consultant concluded that the applicant's conclusion was not unreasonable.

- 2.53 Turning to construction costs, the applicant had adopted a figure of £1,834 per square meter or just over £7.5 million in total. The consultant compared this figure to the BCIS database, concluding that a median build cost would be £1,957. The applicant's figure is therefore lower than the average build cost for a development of this type, albeit is within the normal cost range.
- 2.54 Other figures, such as sales and marketing costs, legal fees, professional fees etc., were also examined and whilst there was some disagreement between the parties, these differences did not amount to a significant difference overall, with the scheme continuing to make a modest loss. Consequently, the viability assessor is of the opinion that the scheme is not sufficiently viable to support contributions. They have also commented that it is unusual that a scheme with an existing use value of zero is unable to support contributions. However this is caused by the low sales values achievable in the local area set against relatively high build costs. In accordance with Policy DM5, which acknowledges that "the exact amount of affordable housing, or financial contribution, to be delivered from any specific scheme will be determined by economic viability having regard to individual site and market conditions", and having regard for paragraph 64 of the NPPF and the advice contained within the Planning Practice Guidance, it is considered that the application has demonstrated that it would not be reasonable in this instance to require affordable housing or contributions.

Ecology

- 2.55 Having regard for Natural England's Standing Advice, it is not considered that the site contains any features likely to provide habitat for protected to notable species.
- 2.56 It is noted that the River Dour passes underneath the site, within a culvert. Whilst rivers are typically important ecological resources, the culverting of the river at this point has created a barrier to fish migration and caused the substantial loss of watercourse habitat. Consequently, it is concluded that no loss of habitat would be caused by the development.
- 2.57 The Environment Agency have objected to the application, on the basis that the redevelopment of the site presents an opportunity to restore the River Dour through the site and that the development does not provide this restoration.
- 2.58 Until recently, the site was occupied by a building of comparable scale. This building was demolished shortly before, and in anticipation of, the submission of the current planning application. The site still contains some remnants of the building and is entirely covered by concrete hardstanding.
- 2.59 There is no evidence of any deliverable plans to open up the river at this point, whilst any such plan would itself require the acquisition of the site and significant investment. Opening up the river at this point would allow for little, if any, developable space and, as such, opening up the river would be highly unlikely to be financially viable. It is therefore questionable whether there is a realistic opportunity to open up the river in this location. The river would remain culverted under Castle Street to the north and for a short stretch under the car parking to the St James' development, so it is therefore questionable the extent to which the opening up of this short stretch of river would enhance biodiversity.

- 2.60 Given that the river is currently culverted and this situation is highly unlikely to change, it is not considered that the development would result in the loss of or harm to biodiversity. Whilst paragraph 175 (d) of the NPPF encourages the incorporation of biodiversity improvements, it does not direct that permission should be refused where improvements are not incorporated.
- 2.61 It is also noted that the Development Plan includes a policy, DM18, which seeks to enhance the River Dour and its setting. However, this policy acknowledges that it may not be possible to deliver enhancements in all cases.
- 2.62 In the absence of being able to open up the river, the Environment Agency were asked for their further comments. In their response, they acknowledge that concern may be outweighed by other benefits to the project, but suggest that off-site enhancement of the river could be achieved. River restoration/enhancement projects suggested by the Environment Agency are:
- Fish passage at Halfords weir
 - Restoration at Barton path
 - Long term funding for the river warden scheme lead by WCCP

As has been addressed previously within this report, the scheme already has questionable viability such that affordable housing and contributions cannot be supported. Moreover, as the development would result in no loss of habitat, it is not considered that a requirement to provide off-site enhancements would comply with the CIL Regulations tests for requiring contributions as the contribution would not be: “necessary to make the development acceptable in planning terms”; “directly related to the development”; or, in the absence of evidence to demonstrate what a proportionate contribution would be, “fairly and reasonably related in scale and kind to the development”. Consequently, it would not be reasonable to require the developer to fund off-site enhancements to the River Dour. These enhancements will not, therefore, be sought.

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

- 2.63 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.64 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.65 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.

- 2.66 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.67 For proposed housing developments in excess of 14 dwellings (such as this application) the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance to a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education). The applicant has agreed to fund this mitigation, which will be secured by a S106.
- 2.68 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Other Matters

- 2.69 It is relevant to note that, whilst the council can demonstrate a five year housing land supply, the presumption in favour of sustainable development (set out at paragraph 11 of the NPPF), or 'tilted balance', is engaged as the council's development plan is out-of-date. Moreover, whilst the development would cause less than substantial harm to designated heritage assets and would impact upon archaeology (insofar as pre-commencement archaeological works would be required), it is not considered that these matters trigger the tilted balance to be disengaged as the policies relevant to those considerations do not provide "a clear reason for refusing development proposed" (having regard for footnote 6). Therefore, determination must consider the presumption in favour of sustainable development (the 'tilted balance').

3. Conclusion

- 3.1 The site is located within the settlement confines of Dover, which is identified as the 'major focus for development in the District; suitable for the largest scale developments'. The principle of the development is therefore supported.
- 3.2 The development would cause less than substantial harm to the settings of designated heritage assets and it is therefore necessary to refuse permission unless there are public benefits that outweigh this harm, whilst also having regard for the duty on the local planning authority to have special regard to the desirability of preserving the settings of these assets. The development would also reduce the residential amenity currently enjoyed by neighbouring properties. However, it is considered that the regeneration of this site and the economic benefits this regeneration would bring to the town centre, by providing an attractive link to St James' (as well as the employment directly related to the development and the provision of dwellings in a highly sustainable location) provides compelling benefits which outweigh the less than substantial harm to heritage assets and the impacts on neighbours. Additionally, subject to conditions, it is considered that the development is

acceptable in all other material respects and, therefore, it is recommended that permission be granted.

g)

Recommendation

I PERMISSION BE GRANTED subject to a S106 agreement to secure habitat mitigation and conditions to include:-

(1) standard time limits, (2) approved plans, (3) samples of materials, (4) full details of window frames and glazing bars, (5) details of window reveals, (6) details of copings and window surrounds, (7) details of railings to balconies, (8) details of hard and soft landscaping, (9) provision of access, car parking and turning areas (including car turntable) prior to first occupation, (10) details of areas to be used for the loading and unloading in relation to the commercial units, (11) details of cycle parking, (12) details of suitable facilities for refuse storage, (13) archaeological field evaluation, (14) submission of post evaluation archaeological report, (15) details of foundation design, (16) details of flood resistance and resilience measures to be incorporated, (17) scheme for foul water drainage, including a timetable for its implementation, (18) details of surface water drainage, including a timetable for its implementation, (19) scheme of sound insulation between commercial and residential and between residential and residential units, (20) contaminated land assessment, together with remediation and verification as necessary, and (21) construction management plan.

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

Case Officer

Luke Blaskett