

- a) **DOV/18/01169 – Erection of a building incorporating three retail units (Use Class A1) and sixteen self-contained flats (existing building to be demolished) – 12 King Street, Deal**

Reason for report: Level of public interest

- b) **Summary of Recommendation**

Planning Permission be Granted.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS)

- Policy CP1 – Deal identified as suitable for urban scale development.
- Policy CP4 – Housing quality, mix, density and design.
- Policy CP6 – Development generating a demand for infrastructure requirements.
- Policy DM5 – Affordable housing target of 30% for schemes over 15 dwellings.
- Policy DM11 – Location of development and managing travel demand.
- Policy DM13 sets out parking standards and states that parking should be a design led approach based upon characteristics of the area.
- DM17 – Ground water protection zone.
- DM22 – Within Deal secondary frontage, permission only given on ground floor for A1, A2, A3, A4 and A5 uses.

National Planning Policy Framework

- Paragraph 8 – principles of sustainable development.
- Paragraph 9 – decisions should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- Paragraph 11 – approving development proposals that accord with an up to date development plan.
- Paragraph 59 delivering sufficient supply of homes.
- Paragraph 85 – ensuring vitality of town centres.
- Paragraph 92 – decisions should guard against loss of valued facilities and services.
- Paragraph 108 – Promote sustainable transport modes and safe and suitable access to site.
- Paragraph 109 Development should only be 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.
- Paragraphs 117 and 118 – Promote effective use of land and substantial weight to value of using suitable brownfield land within settlements for housing.
- Paragraph 124 – good design is key aspect of sustainable development. Development should function well, add to the overall quality of an area and are sympathetic to local character and history.
- Paragraph 127 – developments should create places with a high standard of amenity for existing and future users.
- Paragraph 163 – Development should not increase flood risk elsewhere and where appropriate should be supported by site specific flood risk assessment.

- Paragraph 165 – Developments should incorporate sustainable drainage systems.
- Paragraph 193 – Great weight should be given to conservation of designated heritage asset.
- Paragraph 195 – Where proposals would lead to substantial harm of designated heritage asset, should be refused unless it can be demonstrated they would be outweighed by substantial public benefits.
- Paragraph 196 – Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- Paragraph 200 – Proposals that make a positive contribution to or better reveal the significance of Conservation Areas should be treated favourably.

d) **Relevant Planning History**

No relevant formal planning applications to this proposal.

PE/18/0045 – Pre application officer advice given regarding evolution and development of current proposal and supporting documents which would be required. Detailed discussions on design in order to develop a scheme which would respond to local context and mix of uses.

e) **Consultee and Third Party Responses**

Technical Consultations

KCC Highways – Accepts conclusions of Transport Statement that there will be no significant increase on the highway network on grounds that proposed trips would be similar to existing uses on site and that shoppers would already be in the town centre. Notes that no parking is provided but site in sustainable location and on street parking controls in surrounding streets. Separate highway consents will be required for re surfacing of the public footway to east of site. Conditions recommended relating to construction management and retention of cycle parking.

Southern Water - No foul capacity issues identified but formal consents will be required for connections. Initial response advised that it would not normally accept surface water discharges into public network and alternative solution required. Now accepts principle of strategy to use current system but with reduced flows than existing, subject to further technical details being received.

Environmental Protection Officer – No objections. Recommends condition regarding sound insulation between flats and shops to safeguard new residents from noise.

Environment Agency – No comments.

KCC Flood and Water Management – Accepts that proposed attenuation with reduced outflow will not increase risk of flooding. Further detailed calculations needed which can be secured through conditions.

KCC Development Contributions – Has assessed potential impact of proposal upon services and has identified a financial need of £864 for library books. Although a need would be generated for primary and secondary education, accepts that CIL Regulations preclude that on the basis of pooled contributions having been exceeded. Satisfied that contributions reasonably required in accordance with Community Infrastructure Regulations. Also requests that superfast fibre optic broadband is delivered to all buildings in keeping with objectives of Broadband Delivery UK.

Kent Police – Notes that considerable efforts made to design out crime. Has identified some areas of concern about defensive space and managing entrances. Further meeting held with agent and notes that a number of recommendations have/will be taken on board (note: some of these relate to non planning matters such as detailed design of door locks)

Natural England – No objections but notes that net increase may result in increased recreational disturbance to coastal Special Protection Areas and RAMSAR sites. Acknowledges that DDC has measures in place to manage impacts.

Dover DC Infrastructure and Delivery Officer – Development will create additional need for open space. In line with adopted formula, a contribution of £13,120 is sought in order to provide additional play equipment in a project delivered by the Council.

Dover DC – Waste Services – Residential waste bins and commercial waste need to be separate from each other and capacities should be provided in accordance with Council requirements.

Third Party Responses

Deal Town Council – No Objections

35 representations received from local residents expressing **support** for reasons which may be summarised as follows:

- Good fit for town centre and will help Deal being busy and vibrant.
- The current building is an eyesore, is deteriorating and would be difficult to convert.
- Current uses unsuitable for the site.
- Independent retail units will be good for the town and provide opportunities for start up businesses.
- Good opportunity to re locate and live in the Town Centre.
- Good mix of residential and retail.
- Will enhance Conservation Area and attract more tourists.
- Will improve King Street which is one of town's most prized assets.
- Development will take Deal into the C21.
- Deal has always been a mixture of old and new buildings.
- Carefully considered design to reflect the area.
- Scale is appropriate to the area and breaks down into separate blocks.
- Excellent all round project.

11 representations received from local residents expressing **objections** for reasons which may be summarised as follows:

- Loss of a sound building. Part of the town's seaside architecture.
- The building should be converted and restored.
- Will not improve the character of Deal.
- Lack of parking will add to existing problems. There is inadequate public transport in Deal.
- The design is bland and generic; it resembles a Travel Lodge.
- The materials do not reflect the local area.
- The CGI misrepresents the true height of the building.
- Health issues with windows which face onto a parking area.
- Will add to drainage issues in the area.

5 representations received expressing **neutral** comments which may be summarised as follows:

- The current building is an eyesore which should be replaced.
- Disappointing that there is no affordable housing proposed.
- Would prefer larger retail units; chain stores are needed for Deal to survive

Following reconsultation on revised plans, 6 further representations were received, **4 objections and 2 in support**, raising similar points to the above.

- f)
1. **The Site and Proposal**
 - 1.1 The site comprises the Royal Leisure Centre which is located on the south side of King Street and backs onto the Middle Street Car Park. Adjacent to the west is Odd Fellows Alley which backs on to commercial premises fronting the High Street, whilst to the east is a pedestrianised access leading from King Street to the car park. The building has a monumental scale within the street scene, with largely blank elevations fronting King Street and the car park. It is unlisted but lies within the Middle Street Conservation Area.
 - 1.2 The building was originally constructed in 1890 as the Oddfellows Hall but was converted to a cinema around 1910. Following eventual closure of that in 1981, it was converted into an amusement arcade on the ground floor with a snooker club at first floor. Whilst the amusement arcade has recently closed, the snooker club remains open.
 - 1.3 The proposal is to demolish the existing building and erect a new building on the existing site footprint with a total of 16 apartments on upper floors and 3 retail units on the ground floor. The mix would be 9 x 1 bed, 3 x 2 bed and 4 x studio units, with the retail units having floorspace between 60 sq m and 85 sq m. The building would be 4 storeys in height although the 4th storey would have a reduced floorspace area and set in from the floors below in order to reduce the actual and perceived massing. The architectural approach is contemporary in form with the main driver seeking to break up the main elevations by having articulated frontages split into plot widths similar to those found elsewhere in King Street, and by a variety of ridge heights. A mixture of materials, part of which reflect the local

palette, and architectural detailing such as projecting bay windows and deep window reveals, are intended to add further interest.

- 1.4 Because of the sustainable location, no parking spaces are proposed within the development, although there is provision for 16 cycle spaces and 2 mobility scooters in the ground floor. Separate refuse bin enclosures are also provided for the residential and commercial elements of the scheme, with external access via the car park. A smaller basement is also proposed providing additional residential and commercial storage. The 3 retail units would front onto King Street with each being self-contained.

2. Main Issues

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

- The principle of the development
- Loss of community facility and provision of housing
- Heritage & design considerations
- Highway and parking Issues
- Flood Risk
- Affordable Housing and Development Contributions
- Impact from habitat regulations
- Other matters

Assessment

Principle of Residential Redevelopment

- 2.2 Given the site's location within the urban boundary of Deal and the fact that it is a brownfield site, there is no objection in overall policy terms to some form of development on the site. In that respect it would be consistent with Policy CP1 and DM1 of the Core Strategy. The site is also in a highly sustainable location, being within metres of the Town Centre and 500 metres of the railway station. In that regard the NPPF says that there should be a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The various issues are considered below.

Loss of Community Facility and Provision of Housing

- 2.3 The NPPF says that decisions should guard against the loss of valued facilities and services, and given the current role of the site, it could be argued that it falls into that category. In response, the applicant has submitted a detailed supporting statement which explains that both current uses have been a victim of falling demand. In relation to the snooker club, a combination of no smoking, availability of cheap alcohol elsewhere and gaming controls, have led to a serious decline in such clubs since the heyday of the 1980s. Similarly, amusement arcades have suffered from controls over gambling, the growth of home game consoles and family entertainment centres and a generally poor public image. Figures within the report show that over

200 amusement arcades closed between 2007- 2009. Unsurprisingly in the light of the above, detailed financial accounts for both uses show the extent of losses which have occurred year on year with little sign of recovery.

- 2.4 In terms of alternative venues for the existing uses, the statement notes that the applicant owns an alternative amusement centre in the town, whilst there are various locations where snooker could be played in social venues, community centres etc. should there be demand for that. As to demand for the existing building, an audit of local facilities reveals that the town is well equipped with a number of other leisure and community based buildings and that it is not lacking in community space. With regard to reinstating the former cinema use, the Astor Community Theatre shows films and there are also proposals to reinstate the Regent Cinema in the town. Aside therefore from the question as to whether there would be demand for a further cinema use, the cost of conversion and bringing the building up to modern day standards, is likely to be prohibitive.
- 2.5 Given the above, officers are satisfied that the case is made in terms of justifying an alternative use for the building or site from its current leisure uses. In terms of the proposed use, additional housing within the town centre is to be welcomed in terms of its sustainable location, assisting in the general sustainability of the town itself, and the addition of 16 units to the District's housing supply. Similarly, the proposed 3 commercial units are to be welcomed in that not only are they of a size which is likely to be attractive to independent retailers, but they will also assist in improving pedestrian footfall in King Street and add to the general life and vibrancy of the Town Centre.

Heritage and Design Considerations

- 2.6 Because of its inclusion within the Conservation Area, there is a statutory duty to consider the desirability of preserving or enhancing the character or appearance of that area. In that respect, although the building is of interest from its historical uses, an accompanying report from a firm of quantity surveyors explains the difficulties of converting it, in that all that would remain once the internal first floor is removed, would be the external walls and roof structure. The walls are uninsulated and out of plumb and with the added cost of forming additional window openings and dealing with likely asbestos in the building, the cost would be prohibitive. Given that there is unlikely to be an alternative leisure/community demand, retaining the building may well result in an unviable scheme commercially and therefore in all likelihood, a vacant building in a key location within the Town Centre.
- 2.7 Visually, the building has a monolithic presence within King Street because of its massing and lack of any active frontage through limited window openings. This contrasts with the dense urban grain and narrow plot widths of other buildings within King Street. The same massing and bland appearance presents itself to the Middle Street car park.

- 2.8 Drawing the above together and provided the replacement design is appropriate, officers consider there is a sound case to be made to support its demolition with a new building, provided that the design would preserve or enhance the character or appearance of the Conservation Area.
- 2.9 With regard to design, the applicants have opted for a deliberately contemporary approach with a flat roofed building and modern detailing, but one which also draws on local characteristics of the area in order to facilitate its integration within the street scene. This is considered to be a valid approach given that there is a variety of different styles, designs and storey heights within King Street at present. Whilst the overall footprint of the building would be similar to the existing, the massing would be broken up by projections within the elevations at intervals, in order to respond to general plot widths and rhythm of existing buildings in King Street. These would be emphasised by changes in materials. The set back of the fourth floor would also assist in reducing the monolithic impact of the current building, particularly when viewed from Kings Street. In terms of detailing, the use of vertically proportioned windows with inset reveals, projecting bay windows and oriel windows, all pick up on local characteristics. The use of render and a local stock brickwork will also provide references to local buildings, whilst the introduction of copper sections and the metal clad roof will provide the contemporary elements. Whilst the issue of design is somewhat subjective, it is worth noting that significantly more representations have been received supporting the proposal than against it, including importantly, the Town Council.
- 2.10 On detailed matters, revised plans have addressed some of the issues relating to crime prevention highlighted by Kent Police, in terms of access to the building and storage areas etc, whilst more detailed matters such as controlled entry and window security will be addressed at Building Regulation Stage.
- 2.11 In summary, officers are of the view that the proposal would provide a well designed building which, whilst responding to the scale of the existing building, would also result in a design more in keeping with the character of this part of Deal and which would better respond to the urban grain than the existing building does. As such it is considered that the character of the area would be preserved and indeed enhanced.

Highways and Parking

- 2.12 The Transport Statement submitted with the application demonstrates that based on nationally acknowledged TRICS data, the proposed uses would generate slightly less daily trips than the authorised uses would, which of course could be resurrected without the need for any new permission. Members will note that KCC Highways concurs with that assessment and agrees that there would be no significant increase in traffic generation on the local network.
- 2.13 In terms of parking, a number of representations have expressed concern about the lack of parking on site. As with trip generation

above, there is already a theoretical demand for parking associated with the existing uses, which would be 41 spaces according to parking guidelines set out in Policy DM13, compared to 18 spaces which would be required with the proposed uses. Additionally, the site is in a highly sustainable location being so close to both the Town Centre, the railway station, bus services and the National Cycle route. In the case of the latter, cycle storage provision would be made available within the building itself for each of the units. It may well be therefore that future occupiers would decide that they do not need reliance upon a private car.

- 2.14 Should that not be the case, there are resident parking permit schemes available nearby, but elsewhere on street parking restrictions apply in the locality, so that there is unlikely to be any added on street parking congestion. Members will note that similar arguments were made in respect of the nearby Quarterdeck development which was also approved without on street parking, and officers are not aware that this has given rise to any particular issues.
- 2.15 In terms of refuse provision, separate facilities would be made in the ground floor of the building which would be serviced from the car park. Size of the various commercial and residential containers would be in compliance with the standards of the Council's waste services section.
- 2.16 The NPPF advises that permission should only be refused on highway grounds if there is an unacceptable impact upon highway safety or the residual impacts would be severe. For the above reasons, officers do not believe that would be the case.

Flood Risk

- 2.17 Because of the location, a detailed flood risk assessment was submitted with the application. That study concludes that the only likely risk arises from potential coastal flooding. However, in view of the recent coastal defence works in Deal, the calculations show that even allowing for climate change, the building would be protected from a 1:200 year flooding event and therefore the risk from flooding is very low. The study also shows that would still be the case even allowing for a breach of the coastal defence works. Notwithstanding that, precautionary measures are recommended to be built into the design of the building, such as flood barriers across doorways and raising of electrical sockets, in order that it could be quickly returned to use following any extreme flooding incident. Such matters can be controlled through a condition. The study was prepared in consultation with the Environment Agency and the Agency has confirmed it has no further comments.
- 2.18 With regard to disposal of surface water, the current arrangement is that the existing building discharges into a combined foul and surface water sewer. Southern Water's position is that for new developments it would prefer alternative and separate arrangements, usually in the form of soakaways and such like. However, in the case of the application site there is no scope for that given that it is surrounded by highway land on all sides immediately beyond the boundaries of the site. Accordingly, the proposal is to install a surface water tank within

the basement area, which would be linked to the existing combined sewer but have a hydro brake to ensure that surface water is discharged at less than 50% of the discharge rate from the existing building. The revised flood risk assessment provides the general details of such an arrangement. Southern Water has now accepted the principle of the system, subject to detailed matters relating to the design, which can be secured through a condition.

The Conservation of Habitats and Species Regulations 2017

- 2.19 As part of the Appropriate Assessment required in respect of the above, 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.
- 2.20 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.
- 2.21 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.
- 2.22 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 harmful effects of housing development on the sites.
- 2.23 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). Natural England has been consulted on this appropriate assessment and concludes the assessment is sound. The applicant has agreed to such mitigation which is in the form of a financial contribution of £314 in accordance with the approved formula for such calculations.
- 2.24 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.

Affordable Housing and Development Contributions

- 2.25 Policy DM5 of the Core Strategy, requires that for developments of 15 or more dwellings, 30% of the units are expected to be affordable homes. For this proposal, that would equate to 5 affordable units with 70% rented and 30% intermediate tenures. Accompanying the application in that regard was a detailed viability assessment which concluded that the development would not be profitable if affordable housing was included within it.
- 2.26 Officers have had the assessment independently verified by a firm of consultants who have extensive expertise in such matters. The consultants have carefully appraised the various assumptions made in the assessment, and whilst questioning some of those and making adjustments because of them, have agreed with the applicants that the scheme would not be viable if affordable housing was included within it. In such a scenario, and if the Council insisted on affordable housing being provided, it is most unlikely that any scheme would proceed.
- 2.27 Whilst the above position is disappointing, officers have no reason to dispute the findings of either the viability assessment or the independent review of that study. On balance, it is considered that the wider benefits of the scheme going ahead in terms of provision of additional housing, a more appropriate design than the current building, and the potential of the retail units to add to the vitality of the town centre, outweigh the lack of affordable housing in this instance. It is also noted that whilst not falling within the definition of affordable units, the proposed 4 studio units and 9 x 1 bed units would at least offer accommodation at the lower end of the market.
- 2.28 In terms of other contributions, and in accordance with policy, the applicant has confirmed that the development would be able to sustain a contribution of £13,120 towards the provision of open space, which would be put towards enhancement of facilities at Victoria Park, and £868 towards provision of library books as required by Kent County Council. Additionally, as noted above, there would be a contribution of £314 towards mitigation for the Sandwich Bay SPA and Ramsar sites. All these contributions would be secured through a S106 Agreement, a draft of which has been submitted, and which would be completed prior to any formal decision being issued, should members be in agreement with the overall recommendation.

Other Matters

- 2.29 From a residential amenity point of view, there is upper floor residential accommodation elsewhere in King Street. However, given the existing uses of the building and the scope for late night activity, it is considered that the potential impact of the new development would be less than currently. To the west, the proposed building would be very close to the rear of properties backing on to Odd Fellows alley, and which have rear windows in upper floors. However, that is already the case and the building would have no greater physical impact in that respect. Detailed matters relating to facing windows

and measures to ensure continued privacy, need to be finalised but can be resolved through a suitably detailed condition.

- 2.30 Although there is little documentary evidence of archaeology on the site, in view of the demolition of the existing building, there is the possibility of archaeological remains being present following excavation for new foundations. Such a possibility could be controlled through an appropriate watching brief condition.
- 2.31 Finally, the demolition of the building and construction of the new building would inevitably cause some localised disruption of the town centre and adjoining car park. Accordingly, it is recommended that a Construction Management Plan be submitted which would address such matters as hours of operation, vehicle routes, temporary road/car park closures etc.

3. **Conclusion**

- 3.1 The proposed development is considered to be a well thought out scheme in a highly sustainable location which would be consistent with a number of important planning objectives within the Core Strategy, including the provision of a useful contribution towards housing supply and additional retail units to assist with ongoing vitality of the town centre, both of which would provide appropriate uses for a building which may become difficult to let and potentially vacant for a long period. The design approach is considered to be appropriate, offering a reduced massing and greater articulation than the current building, and overall would enhance the character and appearance of the Conservation Area. Although the lack of affordable housing is disappointing, other contributions required by adopted policy would be secured, and officers consider that the overall advantages of the scheme outlined above, outweigh the lack of such housing in this instance, particularly as a range of smaller units of accommodation would be provided.
- 3.2 Accordingly, officers recommend that permission is granted subject to development contributions being secured through a S106 Agreement and the conditions set out below. In respect of the latter, new Regulations now require that any pre commencement conditions need to be agreed with the applicant in the first instance. This will relate to conditions 10, 11 and 12 and officers can confirm that the applicants are agreeable in that respect.

g) **Recommendation**

- I Subject to completion of S106 Agreement in relation to Development Contributions as set out in the report above, PERMISSION BE GRANTED subject to the following conditions:-

(1) standard time; (2) approved plans; (3) details of external materials; (4) larger scale details of various architectural detailing, including doors, windows and balcony details; (5) details of fenestration and balconies in upper floors of western elevation to safeguard privacy; (6) details of flood resilient measures in design of building at basement and ground floor; (7) details of sound attenuation measures between

flats and retail units on ground floor; (8) cycle provision before occupation; (9) refuse and recycling before occupation; (10) detailed calculations of surface water disposal and ongoing maintenance; (11) development to be carried out in accordance with construction management plan; (12) archaeological watching brief.

- II Powers be delegated to the Head of Planning, Regeneration and Development to resolve any necessary planning conditions and matters connected with the proposed Development Contributions, in accordance with issues set out in the report and as resolved by the Planning Committee.

Case Officer

Kim Bennett