

**a) DOV/19/00216 - Outline application for the erection of up to 42 dwellings with associated parking and means of access (all matters reserved except for access) – Land north-west of Pegasus, London Road, Sholden**

Reason for report - Number of contrary views (16)

**b) Summary of Recommendation**

Planning permission be granted subject to conditions and S106 agreement

**c) Planning Policies and Guidance**

Legislation

Planning and Compulsory Purchase Act 2004

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”

Core Strategy Policies (2010)

CP1 - Settlement Hierarchy  
CP3 - Distribution of Housing Allocations  
CP4 - Housing Quality, Mix, Density and Design  
CP6 - Infrastructure  
DM1 - Settlement Boundaries  
DM5 - Provision of Affordable housing  
DM11 - Location of Development and Managing Travel Demand  
DM12 - Road Hierarchy and Development  
DM13 - Parking Provision  
DM15 - Protection of Countryside  
DM16 - Landscape Character  
DM17 - Groundwater Source Protection

Land Allocations Local Plan (2015)

DM27 - Providing Open Space

National Planning Policy Framework (NPPF) (2019)

Paragraph 2 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 8 - Identifies the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles.

Paragraph 11 - Presumption in favour of sustainable development for decision-taking. For decision taking this means approving development proposals that accord with the development plan without delay unless adverse impacts significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.

Paragraph 38 - LPA's should approach decisions on proposed development in a

positive and creative way and work pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision makers should seek to approve applications for sustainable development where possible.

Paragraph 59 – To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Paragraph 78 – To promote sustainable development in rural areas, housing should be located where it will enhance the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.

Paragraph 108 – Applications for development should make appropriate opportunities to promote sustainable transport modes, provide that safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network in terms of capacity and congestion) or on highway safety can be mitigated.

Paragraph 109 - Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 117 – Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 122 – Planning policies and decisions should support development that makes efficient use of land, taking into account (amongst other considerations) the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.

Paragraph 123 – Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.

Paragraph 124 – The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 – Planning decisions should ensure that developments:

- Will function well and add to the overall quality of the area, for the lifetime of the development;
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- 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);
- 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;
- Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport

- networks; and
- 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 the fear of crime does not undermine the quality of life.

Paragraph 128 – Design quality should be considered throughout the evolution and assessment of individual proposals. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably.

Paragraph 130 – Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards.

Paragraph 148 – The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise, vulnerability and improve resilience; encourage the reuse of existing resources, support renewable and low carbon energy and associated infrastructure.

Paragraph 163 - When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

Paragraph 170 - Planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the wider benefits of ecosystem services and minimise impacts on biodiversity and providing net gains in biodiversity. Recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 175 - When determining planning applications, local planning authorities should apply the principles to conserve and enhance biodiversity and development proposals where the primary objective is to conserve or enhance biodiversity should be permitted, opportunities to incorporate biodiversity in and around developments should be encouraged and planning permission should be refused for development resulting in the significant loss or deterioration of irreplaceable habitats, including SSSI's, ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

Paragraph 177 – The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site, unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Paragraph 178 - To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a

site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 180 – Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. This includes noise from new development and the need to avoid noise giving rise to significant adverse impacts on health and the quality of life, identify and protect tranquil areas prized for their recreational and amenity value and limit the impact of light and pollution for artificial light on local amenity, intrinsically dark landscapes and nature conservation.

National Design Guide (2019)

DDC Affordable Housing and Addendum SPD (2011)

Kent Design Guide (2005)

**d) Relevant Planning History**

None relevant to the application site.

**e) Consultee and Third-Party Representations**

DDC Infrastructure and Delivery Officer – Policy CP 6 of the Core Strategy 2010 states that development that generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either already in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.

Additional need arising from residential developments is calculated using average occupancy rates. Where the application is in outline and the final housing mix is not known, a policy compliant mix across all tenures is assumed. On this basis, the below table calculates that **107.54** new residents will be generated by the proposed development.

Applying the adopted DM27 requirement of 2.22 ha per 1,000 population against the anticipated number of new residents of 107.54 generates an overall accessible green space requirement of 0.2387 ha / 2387 metres squared. The nearest green space of 0.4ha is Betteshanger Park. The nearest access point is a 500m walk from the site and so outside of the accessibility criteria for Accessible Green Space within policy DM27

An area of on-site accessible green space should be secured as part of the site layout at the reserved matters stage. The amount required will be dependent on the final agreed mix of housing applying the 2.22 ha per 1,000 population requirement of DM27. Provision and long-term maintenance/management of the accessible green space should be secured within the legal agreement.

Applying the adopted DM27 requirement of 0.06 ha per 1,000 population against the anticipated number of 107.54 generates an overall children's equipped play space requirement of 0.0065 ha. /64.53sqm. The nearest local play space is Travers Road, a walking distance of 1.1km. The nearest strategic play space is Betteshanger Park, a walking distance of 1.3km.

There is no existing play area within the applicable accessibility standard. On-site provision should therefore be sought in the first instance with long-term maintenance and management secured within the legal agreement. If on-site provision is not

provided, an appropriate off-site contribution would be necessary for this site to be considered policy compliant.

Appropriate offsite contributions are calculated by working out the proportion of a complete facility required to meet the additional need. The average size of equipped play provision within the district being 0.01 ha, the average capital cost being for 2019- and 15-years maintenance being £42,520

The 0.0065 ha /64.53sqm. children's equipped play space requirement generated by the proposed development equates to 64.53% of equipped play provision which equates to a proportionate offsite contribution of £ 27,436.63 based upon a policy compliant housing mix.

The nearest equipped play space is Travers Road Park, a non-strategic site which is currently identified as in need of development. If an off-site contribution is to be sought, this should be put towards necessary the enhancement at Travers Road.

The anticipated number of new residents generates an Allotments/Community Gardens requirement of 0.0088. The nearest allotment, Diana Gardens allotments, is within the 15 minute walking time requirement. An appropriate off-site contribution is therefore not necessary for this site to be considered policy compliant.

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. The strategy requires all development of 15 units or above to make an appropriate contribution.

An appropriate off-site contribution of £2,322.43 is therefore necessary for this site to be considered policy compliant.

The introduction of new CIL regulations in September 2019 has confirmed that a local planning authority is entitled to levy a monitoring fee to cover the costs of monitoring planning obligations within Section 106 agreements. The council employs a dedicated monitoring officer whose time spent on monitoring is recorded to ensure fair and consistent monitoring fees are in place. Individual agreements throughout the previous financial year have been assessed to see what the overall monitoring fee would be in relation to each trigger event. From this a proportionate monitoring fee of £236 per trigger event has been established.

DDC Ecologist: From an ecological stand point this is a very robust report and I support its recommendations. It is now three years out of date, though, so its pushing the boundaries of what I would consider to be an up to date assessment. The site will also have to be looked at with respect to landscape issues.

DDC Environmental Health - do not object to this development, however I note the Transport Statement quotes from a number of different sections within the NPPF in relation to sustainable transport etc. Paragraph 181 includes reference to sustainable measures and deals with air pollution. Whilst this development may fall short of what is considered major, EH would recommend a suitable condition requiring the installation of infrastructure for Electric Vehicle re-charging facilities for this development.

DDC Waste Team: The turnings in from the central road leading to 1,2,3 and 4 plus 6,8,9,10 and 11 (and possibly 5 as well) may not be big /wide enough for the 26 ton freighter to get in to reach the properties. If a car is parked near the junction it won't get past. The supervisor has also asked for it to be made clear that if block paving is used for road surfaces the collection freighter which weighs 26 tons empty could eventually cause damage to the surface and as long as they tell you this in advance they are not to be held liable for any future potential claims for repair. Please be

advised that it is DDC policy that developers pay for all bins for all properties on new developments and they need to liaise with the waste section to order the bins required.

KCC Highways and Transportation – I refer to the additional information submitted for the above and note that there is no safety audit or capacity requirement for a right turn lane bearing in mind the limited number of proposed dwellings. Therefore, whilst I would prefer to see the proposed access position moved as far to the north as possible so that right turning vehicles could be provided with a form of right turn lane within the existing hatching markings, this cannot be insisted upon.

The development is likely to generate around 20 two-way vehicle movements in the network peak hours, which is substantially less than the anticipated daily variation in traffic flows on the A258 London Road. These movements will be split north and south of the site access and then split further on other routes such that the number of additional movements through any junction will not be material. The proposals are therefore unlikely to have a severe impact that would warrant a recommendation for refusal.

Suitable visibility is provided at the proposed access point and the site is readily accessible on foot, cycle and by bus. The applicant has confirmed that no vehicular access will be available from the shared private drive serving Pegasus to the south of the site, and this can be controlled by condition. The site layout and parking arrangements are reserved for future consideration and will be assessed as part of a reserved matters application. Construction activities can be managed and controlled through a Construction Management Plan which can be secured by condition. I therefore have no objections to the proposals in respect of highway matters subject to a significant number of highway conditions being secured.

KCC Archaeology: The proposed development site is in an area of archaeological potential associated with areas of extensive crop and soil marks in fields to the south-west and known Romano-British activity on the opposite side of London Road.

The crop and soil marks to the south west demonstrate the presence of extensive buried archaeological remains and landscapes. These include evidence for several ring-ditches that probably represent the ploughed-flattened remains of Prehistoric burial mounds. Within these fields numerous chance metal-detecting finds have also been recorded, these include a collection of early medieval (Anglo-Saxon) brooches. Such brooches are commonly found in burial contexts and it is now well-recognised that Anglo-Saxon burials were frequently focussed on earlier Prehistoric barrow sites.

In addition to the Prehistoric and Anglo-Saxon funerary evidence, the crop and soil marks also show evidence for trackways, enclosures and other features. One such enclosure, which possibly represents an area of Prehistoric settlement, lies around 25m from the proposed development area. Additionally, there is evidence for Romano-British activity on the north-east side of London Road. Here a trackway, pits and cremation were encountered, which are probably associated with a known Roman villa located at Hull Place. It has been postulated that the line of London Road approximately follows the line of an ancient routeway leading north from Deal along the high-ground alongside the Lydden Valley.

I welcome the submission of the archaeological desk-based assessment (DBA). The DBA provides a good account of the site's archaeological potential. This potential is summarised, by period, within paragraph 6.4 of the DBA. The assessment notes the potential for the site to contain archaeological remains of Bronze Age and Anglo-Saxon date of regional or national importance and a high likelihood of archaeological remains from other periods. If nationally important remains are present, as the DBA suggests could be the case, then careful consideration needs to be given to these.

I would suggest that the question of whether nationally important archaeology is present, or not, should be determined before the detailed design of the proposed development is fixed so that there is the opportunity for the development to be designed/arranged to avoid the most significant/sensitive archaeology. I note that the application is outline in its nature and (other than access) the precise layout and design of the development is not being determined. Nevertheless, an illustrative site layout plan has been provided and, whilst indicative, does give an indication of how the quantum of development might be accommodated at the site. This illustrative site layout seems to show that it is unlikely that there will be much flexibility should it be found necessary to preserve important archaeological remains in situ.

I would therefore advise that it would be preferable for the issue of whether or not nationally important archaeology is present should be addressed now, before the application is determined, by means of field evaluation. Such an approach is supported by the NPPF which notes that “*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*” (paragraph 189). Alternatively, if the applicant can demonstrate that sufficient flexibility can be provided to allow significant/sensitive archaeology to be avoided, then I would suggest that the application could be determined subject to the inclusion of a condition requiring archaeological evaluation works, followed by measures for the safeguarding and/or investigation of archaeological remains as appropriate. One way of introducing demonstrating such flexibility would be to revise the application description to allow up to 42 dwellings, with the precise number of units being subject to the results of archaeological evaluation works.

KCC Flooding and Waste Management – In principle we are satisfied with the drainage design where surface water is proposed to be infiltrated to ground. Desk-based BGS information indicates that Bedrock geology is freely draining and highly compatible for infiltration SuDS. The drainage design is currently based on assumed infiltration rates from soakage testing at the adjacent site. As part of the detailed design, we would recommend that site-specific infiltration testing is undertaken at the location of the proposed infiltration devices. It is recommended that soakage tests be compliant with BRE 365, notably the requirement to fill the test pit several times. Detailed design should utilise a modified infiltrate rate and demonstrate that any infiltration measure will have an appropriate half drain time.

For infiltration measures with depths up to 5m, the separation distance from the edge of the chamber shall be a minimum of 5m. For infiltration measures with depths of greater than 5m, the separation distance from the edge of the chamber shall be a minimum of 10m. We are aware that there is limited space on site for soakaways, however the drainage design could be amended to include trench soakaways.

At detailed design, final full network calculations and model details should be submitted to demonstrate the drainage system’s operation and performance for the critical duration 1 year, 30 year, 100 year +20% and 100 year +40% storm intensities.

Should you be minded to grant permission for this development, we would recommend conditions relating to a detailed sustainable surface water drainage scheme and a verification report.

KCC- Economic Development – Financial contributions are requested from the developer for the enhanced provision and projects towards community services to include:

- Primary Education - £3,324.00 per dwelling, total £139,608.00 towards Phase 1 of Deal Parochial CE Primary School expansion

- Secondary Education -£4115.00 per dwelling, total £172,830.00 towards Phase 1 expansion at the Sir Roger Manwood School
- Libraries - £48.02 per dwelling, total £2016.66 towards a digital den technology hub for 5-11 yr olds at Deal library

These contributions to be secured through a Section 106 Legal Agreement as part of any submission. In addition, the provision of Fibre Optic Broadband across the site should be provided.

KCC Public Rights of Way Office – Public Right of Way EE389 runs adjacent to the development site. The location of this path is indicated on the attached extract of the Network Map. The Network Map is a working copy of the Definitive Map. The existence of the right of way is a material consideration. I have no objection to the development of 42 houses but as part of the site is directly adjacent to footpath EE389 running along the private track I have concerns regarding how this will affect the footpath during the construction phase of the development. No traffic should access the site via this route the track surface is natural and unmade and would not sustain HGV or constant use. Although the access to and from the site from Sandwich Road does not affect any rights of way however, it does affect a national cycle route. When planning this access, the applicant must consider priority for cycles and pedestrians crossing and safety must be primary.

Southern Water - No objection as they can provide foul sewage disposal to service the proposed development. Our initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS).

We request that should this application receive planning approval, the following condition is attached to the consent: “Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.”

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

Following initial investigations, Southern Water can provide a water supply to the site. Southern Water requires a formal application for connection and on-site mains to be made by the applicant or developer.

Environment Agency - No comments or objections.

Natural England: No objections, standing advice should be referred to. Designated sites [European] – no objection subject to mitigation - Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area and Ramsar Site may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site.

Kent Police Crime Prevention – We have considered this application with regard to Crime Prevention Through Environmental Design and the National Planning Policy Framework (NPPF). Applicants/agents should consult a local Designing Out Crime Officer (DOCO) or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.

Secured by Design (SBD) Homes 2019 is the current guidance document addressing community safety and security requirements for dwellings. To meet SBD requirements, doorsets and windows must be tested and certified by an SBD recognised third party certification authority. Approved Document Q building regulations for doorset and window specifications only require testing to PAS 24 2016 – [www.securedbydesign.com](http://www.securedbydesign.com)

The applicant/agent has not yet demonstrated that they have considered designing out crime or crime prevention. To date we have had no communication from the applicant/agent and there are issues to be discussed and addressed, these include:

- Development Layout – rear gardens need to be secure with appropriate treatments.
- Perimeter treatments to protect existing property.
- Permeability must be designed and sited to avoid conflict, ASB and nuisance. To include vehicle mitigation without detrimentally affecting appropriately placed pedestrian and cycle routes. We can discuss further with relevant partners if required.
- Natural surveillance opportunities to be maximised.
- Divisional treatments to be min 1.8m high with same height gates to rear garden areas.
- Parking courts rarely achieve sufficient surveillance opportunity.
- Mail delivery for flats to be either of a “through the wall” design or into an air lock lobby with no trade button.
- Doorsets to achieve PAS 24: 2016 or certified equivalent
- All windows on the ground floor or above a flat roof or other potentially vulnerable area, to meet both PAS 24:2016 or certified equivalent and any ground floor bedroom windows to have defensive treatment to protect them.

We welcome a meeting or discussion with the applicant/agent about site specific designing out crime. If this application is to be approved, we request that a Condition or Informative be included to show a clear audit trail for Design for Crime Prevention and Community Safety and meet both our and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998. A development that achieves SBD accreditation, demonstrates that security has been addressed. If the applicant/agent intends to apply for SBD accreditation they are strongly advised to contact us before completing the application form.

Sholden Parish Council - Objects to the application and cannot support for the following reasons:

Sholden Parish Council (SPC) objects to the above outline application. The proposed development breaches Core Strategy and local policies. In addition to this, the number of dwellings is suspect, the traffic statement presented by the applicant omits key recent relevant planning decisions which rebut their traffic findings and the description of the location is not accurate. The proposed access is dangerous and bisects a key and historic piece of Kent infrastructure (The Miners Way).

Dover District Council's (DDC) Five-year housing land supply: Most of the evidence presented by the applicant to support out-of-date policies stems from 2018. At the Cabinet meeting of DDC on 04 March 2019, DDC reported: "An assessment of the Council's housing land supply demonstrates that at this point in time it is considered that the Council has a five year housing land supply of 5.56 years for the purpose of paragraph 11 of the revised NPPF (2018)".

This is supported, or indeed supports, the findings of the MHCLG first housing delivery test. This shows, amongst other things, that DDC has over delivered (131%) on the number of houses required in the past three years. This confirmed housing land supply assessment now brings policies DM1 and DM 15 of the Adopted Core Strategy (2010) into play. And so, it follows that this application must fail quite simply because the land is outside the urban boundaries and rural settlement confines (DM1). There are no other development plan policies justifying development. The location is not functionally required and the proposed development is not ancillary to an existing development. Just to clarify this "ancillary" point: the proposed development is not providing necessary support to the primary activities of another development. The claim that this proposed development somehow "rounds off" the development around Elliots (sic) Way is not, by any stretch of the imagination, providing support to the primary activities etc. of Elliots way.

Referring to DM15, it goes without saying that the proposed development will result in the loss of countryside (particularly part of the Sholden Downs) and that the character and appearance of the countryside will be affected. Therefore, the application should be refused. LPA's can make exceptions to this policy when there are agricultural needs, sustainable rural economy/community needs or where the development cannot be accommodated elsewhere. None of these exceptions apply here.

Number of dwellings: Throughout the Planning Statement the applicant refers to an outline application comprising up to 42 dwellings. However, paragraph 6.18 of the PS clearly moves the development from "up to 42 dwellings" to "the principal benefit of this scheme is the *delivery of 42 new dwellings*". The stress is mine. Notwithstanding that, the applicant seems to have ignored the fact that DDC had requested that the development be downsized to 30 dwellings. Sholden Parish Council has not seen any evidence to indicate that the DDC, subsequent to 30 March 2016, have potentially considered up to 42 dwellings. Although this is an outline application, even an outline application must fail when the accuracy of the number of dwellings is over 33% inaccurate. However, Sholden Parish Council stresses here that it objects to any potential development on this greenfield site (which has been beneficial for pony/horse stabling over many years).

Location: The Planning Statement says that the proposed development abuts the "Sholden Fields" development and finds that this is a good reason for further development in the area. The proposed development does not abut the Sholden Fields development. It is not next to it nor does it have a common boundary with it. Any visitor to the proposed site can easily see that between the boundaries of the proposed development and Sholden Fields there are (i) a public footpath, (ii) a permissive bridleway (together these make up the historic Miners Way), (iii) the A258 trunk road and (iv) another footpath. A not insignificant collection of barriers dividing the two areas. The applicant has been somewhat disingenuous in suggesting otherwise.

Transport Statement: The Transport Statement submitted by the applicant in support of the application omits to mention two key planning decisions affecting the proposed development. These two planning decisions affect traffic movements either side of the applicant's planning application site, namely:

(i) The DDC Planning Committee on 31 August refused planning permission for development on land at Churchfield Farm in Sholden (DOV/17/01345). That refused development is about a kilometre away from this proposed site. The grounds for refusal were:

“The proposed development, by virtue of the number of vehicle movements generated by the development, the design of the proposed 'shared surface' on The Street and the geometry of the junction between The Street and London Road, would lead to an unacceptable impact on highway safety and, cumulatively with other existing and committed development, cause a severe impact on the local road network, contrary to paragraph 109 of the National Planning Policy Framework”.

The key link between the above application and this proposed Pegasus development (19/00216) is the phrase: “cause severe impact on the local road network”. Whilst the developments are different in size, Sholden Parish Council has a recent traffic analysis stating clearly that London Road towards Manor Road is already overloaded – please see Appendix A. Any further developments in Sholden will only serve to exacerbate that problem and breach NPPF policies.

(ii) In application DOV/19/00084 (Old Lorry Farm Shop Sandwich Road Sholden CT14 0AS) the application had a holding objection on it (from KCC Highways) because of a lack of information around vehicle movements. Sholden Parish Council would argue that such a holding objection is because of concerns about the potential impacts on local roads. As above, Sholden Parish Council believes, supported by the independent traffic analysis at Appendix A, that any further developments in Sholden will only serve to cause severe impacts on the local road network. As above, contrary to paragraph 109 of the National Planning Policy Framework.

In addition to the traffic issues above, the applicant does not address the dangers of bisecting a public footpath (the old Miners' Cycle Track) and a permissive bridleway. The proposed new access to the development will, because of the increase in traffic and traffic turning into and coming out of the proposed development (especially during construction), heighten the danger to walkers, cyclists and riders. This bisection of the public footpath and the permissive bridleway breaches the NPPF Paragraph 110 which states, inter alia, that developments should be located and designed to “give priority first to pedestrian and cycle movements, both within the scheme and within neighbouring areas”. As proposed, the access to the proposed does exactly the opposite of NPPF Paragraph 110.

The Manual for Streets, summarised in Manual for Streets 2 (MfS2) (September 2010) encourages walking. The proposed access will discourage walkers – especially those with younger children and the more vulnerable members of society. Furthermore, MfS2 advises that cycling can bring about benefits in terms of vehicular emissions, traffic collisions and public health. To summarise, MfS2 Paragraph 6.1.3 states that cyclists prefer direct barrier-free routes that avoid the need to dismount. Routes that take cyclists away from their desire lines and require them to concede priority to side road traffic are less likely to be used. And paragraph 6.1.3 continues that cycle tracks that bring cyclists into conflict with side road traffic can be more hazardous than routes that stay on the main carriageway. It clearly follows that the proposed access to the site will increase hazards to cyclists: especially those en route to and from Betteshanger Country Park.

In addition to the above, Sholden Parish Council has been advised that it is not acceptable to cut through a historic cycle track. The track should run continuously as it has done since it was built (for the miners to cycle to their shifts) and as it does today for the ease, safety and enjoyment of cyclists, walkers and riders alike.

There are very few continuous stretches of dedicated cycle track in Kent. Public opinion would not want this key part of Sholden infrastructure disrupted in any shape or form.

Public Rights of Way (PROW) & Access Services: Sholden Parish Council agrees with PROW in that, because of the damage that will be done to footpath EE389, no traffic should access the proposed site via footpath EE389. This in effect stops the development. In addition, SPC agrees that the safety of cyclists and walkers is paramount. And on safety grounds alone the planning application must be refused.

KCC Highways and Transportation: Although KCC (Highways) has “no objection in principle”, he has not seen SPC’s independent traffic analysis at Annex A which states at paragraph 1. that: “..it is not acceptable to continue to load traffic onto a roundabout/junction that is already operating above an acceptable capacity...”. Traffic from the proposed site (whether light or heavy) cannot do anything but load onto the aforementioned roundabout/junction. And thus it follows that the application should be not only refused on the material considerations above but also, now, this latest traffic survey evidence.

Conclusion: Taking all of the above into account, the DDC has no option but to refuse planning permission. It should also be said that the Planning Statement had many inaccuracies which are confusing – especially as Sholden does not have a railway station.

#### Further Comments

SPC re-affirms its objection to this planning application. Woods Hardwick Planning seem to be, once again, relying on an Appeal (APP/X2220/W/17/3183959) to show that Dover District Council does not have a five year supply of housing land (5YSHL). But once again, as we have stressed in our letter of 28 March (and now recognised by Woods Hardwick Planning in their e-mail of 16 April - paragraph 6), that appeal pre-dates the March 2019 AMR. At the risk of repetition, the March 2019 AMR is quite clear and unambiguous - DDC can clearly demonstrate a robust 5YSHL. The DDC figures are supported by central government. And contrary to the applicant’s claim, DM1 should now be afforded a great deal of weight, so much so that the planning application should be refused on DM1 alone.

The application does conflict with policies DM15 and DM16 (Protection of the landscape and Character of the countryside). SPC has provided adequate evidence to support that statement. The applicant has not challenged our assertion and therefore SPC would advocate refusing the application not only on the breach of DM1 but also that it breaches DM 15 and 16.

SPC would like also to reflect on the latest Ecological Assessment. SPC agree that the ecological report “is now three years out of date, though, so its pushing the boundaries of what would be considered to be an up to date assessment. As discussed the site will also have to be looked at with respect to landscape issues”. In effect SPC put that the Ecological Assessment is now unacceptable and that there are landscape issues and thus DM16 is engaged.

Finally, it seems to SPC that implicit throughout the NPPF is the fact that any potential developer (or their agents) would have a modicum of knowledge of the proposed site and surrounding areas. We have already highlighted that Sholden *does not* have a railway station and that the proposed site does not abut Sholden Fields. But now we notice that applicant/agent says the site “is located adjacent to but outside of the Settlement Boundary for Sandwich”. SPC would argue that the site is outside the Settlement Boundary for Deal (including Sholden). Such lack of geographical

knowledge by the applicant of the proposed site should be assessed against the NPPF when taken as a whole. And that the NPPF as a whole is a material consideration.

SPC maintains its objection to this proposed development. We have written three separate occasions. SPC continues to stand by the contents of those letters.

- This area is not in the Local Plan
- Dover also has 5.56 Years of Land Supply.
- We support Deal Town Council in that the continuous Cycle Track and the Miners Ways (both historical) must not be bisected by the access to this site. Any access defeats the encouragement for safe walking and safe cycling.
- There is no safe turning/waiting area for accessing the site from Sandwich.
- KCC H/Ways state there will be 20 two way movements at peak times. There are 238 properties opposite, with an adjacent access onto the A258. This means there will be an additional 120 movements at peak times. This in turn means that H/Way safety and waiting times increasing immensely. Waiting times are now at peak times 10mins.

Deal Town Council: Deal Town Council were very interested to see this application as they are currently working on a "Cycle Friendly Deal" project (covering Deal, Walmer, Sholden and Mongeham), this has been part funded by the Coastal Community Fund.

The access to this development cuts through the Miners' Cycle Track that runs alongside the A258 from the junction with the Pilgrims Way Sholden (EE389) continuously to the roundabout at Betteshanger Park and then continues to Bridge Hill. With the new bus stop at Sholden, the track now effectively starts at the Toucan Crossing. This crossing connects the Miners Cycle Track with a traffic free cycle route through to Middle Deal.

The Miners' Cycle Track was built by Italian Prisoners of War to enable the miners to get to and from their shifts safely, and this historic piece of infrastructure has suffered enough vandalism over the years, this physical piece of our heritage should be preserved.

In addition, there are very few continuous stretches of surfaced, dedicated cycle track in Kent, making this a valuable piece of infrastructure. Unless the developer can find a way to preserve the cycle track in its current form, then Deal Town Council objects to this development.

Third Party Representations - A total of 13 representations have been received objecting to the proposal. The following is a summary of the objections received:

- Impact on traffic along Sandwich/London Road
- Increased risk of accidents
- School places already limited
- Noise and disturbance during construction
- Too many houses being built in Deal
- Deal doesn't have infrastructure and houses are not affordable
- Increased congestion and danger to school children in the area
- Further countryside/greenfield sites being developed
- Loss of wildlife, habitats for birds and mammals
- No regard for local needs
- Site not allocated for development and outside the settlement boundaries
- The A258 is already busy
- Why more development when short of GP's, dentists, hospital, employment and retail
- Impact on bridleway/footpath/cycle way

- More houses are not needed
- No ability to turn into the site without queues
- No visitor parking
- Already issues with the power supply and drainage in the area
- Reports contain inaccuracies
- A relief road is required
- Increased congestion and air pollution
- Road junctions are already dangerous
- No increase in local services to address increased demand
- Further reduction of greenspace/area is part of Sholden Downs
- Potential loss of privacy for nearby properties
- Crosses a heritage cycleway/footpath (The Miners Way) causing a hazard to pedestrians/cyclists
- Further impact on climate change and flooding
- The population of Sholden has already over doubled
- Only main road linking to Sandwich, already congested.

### Landscape Consultants Advice

An independent Landscape Consultant was appointed by DDC to provide advice on the landscape impact of the proposed development and provide advice on the appropriateness of the Landscape and Visual Impact Assessment (LVIA) submitted by the applicants. A full report has been provided and is available to view online. It concludes:

*“Taking into the account the findings of the LVA and the assessment of policy compliance as set out in the preceding section of this report, it is advised that overall, there appear to be no significant landscape and visual issues that would arise in granting consent of an outline planning permission.”*

*In summary, the proposed development would have some landscape and visual relationship with existing settlement along the southern and eastern site boundaries and although development would extend across an open field, the landscape impact of this is minimised to some degree by existing development on the edge of Sholden and the containment of hedgerows.*

*Although some adverse effects are predicted, these are relatively localised in extent and the proposed mitigation measures are considered an adequate response to minimise effects and help integrate the site into the surrounding landscape.”*

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

##### The Site

- 1.1 The site is located on the western side of London Road, Sholden and forms an area of 1.51 hectares. It is situated outside the settlement boundary of Deal but adjoins it on the southern and eastern boundaries. It is roughly rectangular in shape and extends along the London Road frontage. On the other side of London Road is a relatively recent housing development with dwellings extending along the London Road frontage. To the south east and outside the application site is Pegasus, a chalet style bungalow. To the front of this property, two detached two storey dwellings have recently been constructed. To the north and west of the site are open agricultural fields laid to crops.
- 1.2 The site is situated to the south of a number of national and international designations – Thanet Coast and Sandwich Bay RAMSAR and SPA on the coast and Sandwich Bay to Hawkinge Marshes to the north/west. These also form part

of the SSSI. Betteshanger Park and Cottington Lakes are to the north of the site. There is also a Public Right of Way along the southern boundary EE389 that links up to a number of other PROW and a Bridleway to the north ED37.

- 1.3 The site itself is largely grassed and fairly flat and has been used for grazing. Tree hedges from the rear/western and northern boundaries with some landscaping to the front /eastern and southern boundaries. To the rear of Pegasus there are a number of low key outbuildings and hardstanding areas. It is with Flood Zone 1 and Groundwater Source Protection Zone 3.

### The Proposal

- 1.4 This application is in outline form and includes details of the means of access with appearance, layout, landscaping and scale reserved for future consideration in a reserved matters application. However indicative plans have been submitted that show a proposed indicative layout. The proposal is for the erection of up to 42 dwellings to include 3, 4 and 5 bed dwellings. The indicative plans provide an indication of the expected layout of the proposed development. The indicative site layout includes the layout of the roads which comprises a main access road with smaller access roads sections forming cul-de-sac's. Off-street car parking is available for all the dwellings in the form of drives and dedicated car parking spaces. Some existing and new tree and hedge planting and associated landscaping is proposed throughout the development and along the boundaries.
- 1.5 It should be noted that the indicative layout of up to 42 dwellings has not been considered in any detail and would need significant amendment before it could be agreed.
- 1.6 The following documents have been submitted in support of the application a number of which have been submitted during the course of the application:
- Design & Access Statement
  - Planning Statement
  - Transport Statement
  - Road Safety Audit
  - Phase 1 Ecological Survey & Updated survey
  - Flood Risk Assessment
  - Landscape and Visual Impact Appraisal (submitted at a later date and further revised)
  - Archaeological Desk based Assessment

## **2. Main Issues**

- 2.1 The main issues to consider are:
- Principle of Development
  - Impact on the Landscape and Visual Amenity
  - Affordable Housing and Dwelling Mix
  - Impact on Residential Amenity
  - Highways Issues
  - Archaeology
  - Ecology
  - Appropriate Assessment
  - Drainage and Flooding
  - Planning Contributions

- Other Material Considerations

## **Assessment**

### Principle of Development

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan, unless material considerations indicate otherwise.
- 2.3 The site lies outside of the settlement boundaries, where Policy DM1 of the Core Strategy applies. This policy states that development will not be permitted on land outside of the confines, unless it is specifically justified by other development plan policies or it functionally requires such a location or is ancillary to existing development or uses. Having regard to the wording of this policy, the erection of dwellings in this location is by definition contrary to Policy DM1.
- 2.4 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable transport. Insofar as this application is concerned, the proposal is contrary to DM11's blanket approach, despite the site being in a location which has good access to facilities and services, including bus stops and Sandwich train station. Given the particular characteristics of this application and this site, in this instance it is therefore considered that DM11 is out-of-date and should attract only limited weight.
- 2.5 Policy DM15 requires that applications which result in the loss of countryside, or adversely affects the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would result in the loss of countryside, as the site is outside the confines. It is considered that the development would have only a limited impact on the adjoining character and appearance of the countryside which is further mitigated by the proposed landscaping and form of the development, a detailed justification of this position is discussed in more detail below. It is considered therefore, that the proposal is contrary to the first part of Policy DM15 (loss of countryside), but is in line with the second part of Policy DM15 (whether harm is caused).
- 2.6 However, notwithstanding the primacy of the development plan, paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year housing land supply or where the LPA has 'failed' the Housing Delivery Test), permission should be granted 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 (known as the 'tilted balance') or where specific policies in the NPPF indicate that development should be restricted.
- 2.7 Having regard for the most recent Annual Monitoring Report 2018/9, the Council is currently able to demonstrate a five-year supply but has not met the Housing Delivery Test, achieving 92%. Whilst this has been taken into account, it does not trigger the paragraph 11 'tilted balance', which is only engaged when housing delivery falls below 75%. It is considered that the policies which are most important for determining the application are DM1, DM11 and DM15.

- 2.8 The current Core Strategy policies and the settlement confines referred to within the policies were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 629 dwellings per annum. As a matter of judgement, it is considered that some policies in the Core Strategy are in tension with the NPPF, are out-of-date and as a result, should carry only limited weight. As a matter of judgement it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result, of this should carry only limited weight.
- 2.9 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable transport. Insofar as this application is concerned, the proposal is contrary to DM11's blanket approach, despite the site being in a location which has good access to facilities and services, including bus stops and Sholden train station. Given the particular characteristics of this application and this site, in this instance it is therefore considered that DM11 is out-of-date and should attract only limited weight.
- 2.10 The 'tilted balance' identified in paragraph 11 of the NPPF is therefore engaged. An assessment as to whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the development therefore needs to be undertaken and whether there are any other material considerations that indicate permission should be approved.
- 2.11 There are no policies that indicate development should be restricted as the site has no landscape or other designations. Permission should therefore be granted unless there is any clear harm that would significantly and demonstrably outweigh the benefits of additional housing development in the district. This report identifies that there is no visual harm to the landscape or local highways and has been found to be acceptable in all other material considerations. It is therefore an acceptable form of development for this site and is recommended for approval as it meets the overarching objectives of the Core Strategy and the framework in the NPPF as whole.
- 2.12 The applicants have also identified their position in terms of the development being sustainable and the five year supply position, albeit some-what out of date. As such, the applicant considers the Council does not have a five year supply. As referred to above, the Council does have a 5 year supply of housing, nevertheless, there is a need to provide additional housing sites in the new local plan. As no significant harm has been identified, it is therefore appropriate to approve acceptable proposals for housing. A more in depth discussion of the Council's housing land position and its deliverability is not therefore required in respect of this application.
- 2.13 In terms of sustainability, this is defined in the NPPF and the assessment of sustainability can be separated into three dimensions: economic, social and environmental. The applicant has presented a case that the provision of housing will provide additional benefits to the local economy, boosting the local economy and delivering additional housing in the District. Whilst it is agreed that encouraging inward investment should carry some weight these need to be weighed against the benefits and disbenefits of the development as a whole.
- 2.14 The applicant has also advised that the development would create direct and indirect jobs during the construction phase of the development and have further

identified that the development could provide local residents employed in its construction. The development would also increase annual spending following completion. The employment which could be generated by the development therefore adds further weight in favour of the development.

- 2.15 With regards to the social role, the development would provide additional dwellings, which would contribute towards the Districts housing supply and would accord with the aim of significantly boosting the supply of housing. The proposal would also include the required provision of 30% affordable housing, as identified in policy CP5, and would enable the provision of a larger proportion of affordable housing being available that adds further weight in favour of the proposed development. Turning to the environmental role, the proposed development can mitigate the visual impact on the landscape, subject to conditions that also provide ecological and biodiversity enhancements, as required by the NPPF.
- 2.16 These points, although not determinative on their own, add further weight to the recommendation for approval and need to be assessed as material considerations in its favour, notwithstanding the policy position. The development is in tension with the parts of the development plan which provide 'blanket' restrictions on development outside of confines, however, these elements of policies are considered to conflict with the NPPF. The development would broadly accord with the overarching aims of the Core Strategy and accords with the NPPF and is therefore, on balance, considered to be an acceptable form of development on this site.

#### Impact on the Landscape and Visual Amenity

- 2.17 In terms of the impact on the wider landscape policies DM15 and DM16 of the Core Strategy are most relevant. Policy DM15 relates to the protection of the countryside and states that development that would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is in accordance with allocations made in Development Plan Documents or the development justifies a rural location.
- 2.18 Policy DM16 relates to landscape character and states that development that would harm the character of the landscape, as identified through the process of landscape character assessment, will only be permitted if:
- it is in accordance with allocations made in development plan documents and incorporates any necessary avoidance and mitigation measures; or
  - it can be sited to avoid or reduce the harm and/or incorporate design mitigation measures to mitigate the impacts to an acceptable level.
- 2.19 The site is not situated within a designated landscape but consideration of the impact on the existing landscape, its character and visual amenity is necessary to ensure the proposed development does not affect the character of the wider landscape and countryside. It is also necessary to consider paragraph 170 of the NPPF that relates to the need to enhance the natural and local environment, ecology, biodiversity and the importance of the intrinsic character and beauty of the countryside.
- 2.20 A Landscape and Visual Impact Assessment (LVIA) was submitted at a later date and also revised in support of the application which identifies that the impact on the character of the landscape will be low or negligible as all of the existing landscape features are to be retained and enhanced in the context of the site and the existing group of trees. The report identifies there will be some inevitable adverse landscape and visual effect but these would be localised and limited in

their extent. The site is considered to have a long-term capacity to accommodate the proposed development.

2.21 Due to the location of the site, being outside the defined settlement boundary and the potential for harm to the local landscape, it was considered necessary to seek independent advice from a landscape consultant. A landscape consultant was appointed by DDC to undertake a landscape assessment, advise on the submitted LVIA and assess whether there was an unacceptable level of harm on the landscape as a result of the proposed development. The consultant undertook a rigorous assessment of the local character of the area, (both immediately adjoining and long distance views) and his conclusions are set out in the consultation section above. This has confirmed that the impact on the landscape as a result of this development is acceptable and there would be no significant landscape and visual issues that would arise in granting consent of this planning permission, subject to the mitigation measures and additional landscaping put forward being fully implemented.

2.22 In terms of whether the proposal would be compliant with policies DM15 and DM16 the consultant's report states:

*“Does the proposed development result in the loss of, or adversely affect the character or appearance, of the landscape/countryside?”*

*As detailed in applicant's LVA, any adverse effects are predicted to be relatively localised and the most noticeable changes would be on the views of some nearby residents and road users travelling in short duration along the A258. In general, the site is relatively contained and the introduction of built development would be characteristic to its locality. Furthermore, the site contributes little to the wider character of the landscape and in considering all of these factors, it advised that on balance, the proposed development broadly complies with policies DM 15 and 16.”*

2.23 In respect of the proposed mitigation measures the proposal incorporates the retention of existing boundary landscaping and additional landscaping to all the boundaries of the site. Although landscaping is reserved for future consideration it is necessary to ensure at this stage that the landscape mitigation would incorporate both native planting and biodiversity gains appropriate to the landscape character and the site. The proposed landscaping, at this stage, adequately addresses the need for landscape screening and mitigation on site and accords with the requirements of policies DM15 and DM16. Any visual impact is therefore mitigated on the wider landscape and adjoining countryside as required by policies DM15 and DM16. The protection of this proposed landscaping would, however, need to be controlled through appropriate conditions to ensure such measures are carried through to the reserved matters stage. It should be noted that without these mitigation measures the proposal may not have an acceptable impact on the landscape.

2.24 The massing of the development, as shown on the indicative site layout, confirms that the development of this site can be appropriately sited in this regard and can mitigate the impact on the landscape and countryside. In terms of the height of the proposed dwellings the maximum height of the proposed dwellings is set out to be up to two and a half stories, which is a reasonable expectation. Nevertheless, it is considered that the height of the resultant dwellings should be controlled by a condition to require the proposed ground levels, sections through the site/buildings and details of the finished heights of the proposed buildings. This is to ensure that the height of the proposed dwellings on this site are appropriate and acceptable

in respect of the visual amenities of the landscape.

- 2.25 It is therefore considered that the scheme does not give rise to any unacceptable impacts on the visual amenity of the site and immediate surrounding landscape. As such, the proposal is in accordance with Policies DM15 and DM16 of the Core Strategy and paragraph 170 of the NPPF, as no significant harm has been identified that could justify a reason for refusal.

#### Affordable Housing and Dwelling Mix

- 2.26 Core Strategy Policy DM5 and the adopted SPD require that for schemes of this scale, the Council should seek an on-site provision of 30% affordable housing. The applicant is proposing to provide the required 30% affordable housing, which amount to 13 dwellings. The affordable units should be designed and positioned in small clusters and be tenure blind. The Council would seek 70% of the affordable units to be provided as affordable rented homes with the balance provided as shared ownership units. It is considered that, subject to being secured through a condition or section 106 legal agreement, that would require further details of the provision and tenure, the development could accord with Policy DM5 of the Core Strategy and the Affordable Housing SPD. Further details of the affordable housing provision would be considered at the Reserved Matters stage, subject to viability and design considerations. The proposal therefore responds to the need for affordable housing through the provision of policy compliant affordable housing for local people.
- 2.27 The latest Strategic Housing Market Assessment (SHMA) identifies the broad split of demand for market housing to meet the prioritised needs of the district. Whilst these recommended proportions should inform the housing mix, they are however not rigid. At this outline stage very limited indicative details of the dwellings have been provided and any reserved matters application would need to be considered in line with the needs identified in the SHMA.
- 2.28 Policy CP4 of the Core Strategy requires applications for residential development for 10 or more dwellings to identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which it is located and develop an appropriate housing mix and design, taking into account the guidance from the SHMA. It also identifies the need to create landmarks, foreground and background buildings, vistas and focal points in the layout of sites. It is noted that some of these aspects have been considered but the proposed indicative layout will need to be revised to be in line with the relevant policies and guidance. The policy also identifies a need to provide an appropriate density for development sites which will be design led and determined through the design process at the maximum level consistent with the site. Policy CP4 guidance is for a density wherever possible to exceed 40 dwellings net per hectare and will seldom be justified at less than 30 dwellings per hectare. The proposed development proposes a net density of 35 dwellings per hectare which is at the mid-point of the density level required under CP4 and is considered appropriate in relation to the character of this part of Sholden/Deal.

#### Residential Amenity

- 2.29 The precise location of the new build dwellings is unknown at this stage, with this element being submitted in outline. However, the proposed siting of the access road into the site has been submitted in full and will largely inform the final location and layout of the dwellings. Consequently, the final layout, which will be the subject of an application for approval of reserved matters, would need to align, to a certain extent, with the layout shown on the indicative plan. This plan does demonstrate

that the proposed development can be accommodated in a manner which would ensure that reasonable separation distances between new and existing properties and reasonable a standard of accommodation can be achieved. Given the location of the site and the separation distances to other properties, it is considered unlikely that the living conditions of any properties would be harmed unacceptably by the development but a detailed assessment would form part of any reserved matters application and would need to ensure that all measures to minimise the impact on existing properties backing onto the site, along the northern and eastern boundaries, are mitigated from any detrimental impact on their residential amenities.

- 2.30 Whilst the living conditions of the proposed new build dwellings cannot be established at this stage, the size of the site and the density of the development are more than sufficient to demonstrate that the proposed dwellings could be accommodated in a manner which would ensure a high standard of accommodation, albeit the indicative layout is considered to need further detailed consideration and will need some amendments. Nevertheless, it is considered that the living conditions of occupants of the dwellings could be acceptable.
- 2.31 The development has the potential to cause unacceptable harm to the amenities of neighbouring properties during the construction phase and a construction management plan should be required by condition to mitigate this potential harm. The construction management plan would limit the construction hours, provide dust management and ensure that mud is not deposited on the public highway.
- 2.32 Notwithstanding the above, parts of the proposed site are likely to need acoustic ventilation for windows due to potentially exceeding the recommended indoor noise levels with windows open adjacent to the A258 which has the potential to cause noise and disturbance to future occupiers. Therefore proposed dwellings in these areas would need acoustic ventilation to living room and bedroom windows as a necessary mitigation measure. Consequently, this can be addressed through a condition and would need to be considered in more detail at any reserved matters application.

#### Highway Impacts

- 2.33 The relevant Core Strategy policies are DM11, DM12 and to a lesser degree policies DM13. DM11 requires planning applications for development that would increase travel demand should be supported by a systematic assessment to quantify the amount and type of travel likely to be generated and include measures that satisfy demand to maximize walking, cycling and the use of public transport. Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. 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.
- 2.34 Policy DM12 requires that developments that would involve the construction of a new access onto a trunk or primary road will not be permitted if there would be a significant increase in the risk of crashes or traffic delays unless the proposals can incorporate measures that provide sufficient mitigation. Whilst policy DM13 requires that development provides a level of car and cycle parking which balances the characteristics of the site, the locality, the nature of the proposed development and design objectives.
- 2.35 The application site is situated on the north and western settlement boundary with Sholden/Deal. Details of the proposed access have not been reserved and full details of the proposed vehicular access to the site have been provided. The

proposed development is likely to generate approximately 20 two-way vehicle movements in the morning and evening peak hours. A vehicular access junction has been proposed, located fairly centrally along the site frontage with London Road. The proposed junction would be 4.8m wide, widening to a bell-mouth junction of 6m, with a 1.8m wide footpath on either side. No off-site highway works are proposed. The nearest train station is Sholden which is sited 2.6km from the application site. The site also has links to public transport as buses pass the site and these are within easy walking distance (45m). The site therefore has good connections to a number of facilities. Although the proposed layout is indicative, footpaths are proposed on the site that provide easy links to the wider area, with London Road providing links to the town. The proposals therefore provide connections to the existing townscape and adjoining built form that encourages walking.

- 2.36 KCC Highways have raised no objection and have confirmed that the proposed junction and the increased traffic is acceptable on the highway network and does not raise capacity or highway safety concerns. It has been identified that due to the low levels of traffic that would be using the site, a dedicated right turn lane is not required for this development. The proposed works and the erection of up to 42 dwellings do not therefore result in any highway safety or capacity concerns and accord with paragraph 109 of the NPPF.
- 2.37 Significant concerns have also been raised by Sholden Parish Council and third parties that the development would significantly and detrimentally increase and impact on traffic and the highway network in the area, which are identified as already struggling to cope with existing levels of traffic locally. There is also concern that the proposal would cause further access difficulties and queuing traffic on London Road which would result in further capacity and highway safety issues with knock on effect with the Manor Road roundabout.
- 2.38 It is however considered that with appropriate conditions and controls in place these concerns would to a sufficient degree, be addressed. On balance, it is not considered that the proposal would not result in a severe highway impact and would therefore accord with the aims and objectives of paragraph 109 of the NPPF as well as local standards and planning policies.
- 2.39 Members should note that a previous application at land at Churchfield Farm, The Street, Sholden Ref: DOV/17/01345 was overturned and refused by Members on highway grounds that included concerns regarding the capacity of the local highway network. The decision was the subject of an appeal and a local hearing. The application was subsequently allowed by the Planning Inspectorate.
- 2.40 Policy DM13 of the Core Strategy requires that the provision of car parking should be a design led process, based upon the characteristics of the site, having regard for the Core Strategy. Whilst the layout of the development has not been submitted at this stage, the indicative details demonstrate that car parking can be provided in association with the proposed dwellings. The submitted Transport Assessment confirms that such provision will be made in accordance with KCC guidance. Having regard for the density of the development, it is considered that the site is capable of providing the necessary car parking, subject to acceptable details at the Reserved Matters stage.
- 2.41 In conclusion, the highway issues considered in relation to this proposed development are sound and acceptable from both highway safety and capacity perspectives. They fully accord with paragraph 109 of the NPPF and are therefore acceptable. There is therefore no highway grounds to refuse this planning application.

## Archaeology

- 2.42 The application is also supported by a Desk-based Archaeological Appraisal as the application site is in a known area of archaeological interest with a significant number of finds within the local area. The assessment notes the potential for the site to contain archaeological remains of Bronze Age and Anglo-Saxon date of regional or national importance and a high likelihood of archaeological remains from other periods. If nationally important remains are present, as the DBA suggests could be the case, then careful consideration needs to be given to these.
- 2.43 KCC Archaeological Unit has provided their statutory views on the archaeological potential of the site and concurs with the conclusions of the Archaeological Appraisal stating that:

*“I would suggest that the question of whether nationally important archaeology is present, or not, should be determined before the detailed design of the proposed development is fixed so that there is the opportunity for the development to be designed/arranged to avoid the most significant/sensitive archaeology. I note that the application is outline in its nature and (other than access) the precise layout and design of the development is not being determined. Nevertheless, an illustrative site layout plan has been provided and, whilst indicative, does give an indication of how the quantum of development might be accommodated at the site....*

*I would therefore advise that it would be preferable for the issue of whether or not nationally important archaeology is present should be addressed, before the application is determined, by means of field evaluation. Such an approach is supported by the NPPF.....(paragraph 189). Alternatively, if the applicant can demonstrate that sufficient flexibility can be provided to allow significant/sensitive archaeology to be avoided, then I would suggest that the application could be determined subject to the inclusion of a condition requiring archaeological evaluation works, followed by measures for the safeguarding and/or investigation of archaeological remains as appropriate. One way of introducing demonstrating such flexibility would be to revise the application description to allow up to 42 dwellings, with the precise number of units being subject to the results of archaeological evaluation works.”*

- 2.44 The applicants were requested to undertake an archaeological evaluation of the site prior to determination but instead provided additional documentation to justify the alternative approach of amending the submitted scheme to provide up to 42 dwellings. The description of the application has been amended accordingly. It has also been identified above that the indicative scheme would need some amendment to make it acceptable and the proposed indicative layout for these reasons would not be included in the list of approved plans. As such, and on this occasion, it would be reasonable to attach a condition requiring a programme of archaeological work to be undertaken in advance of any development on this site and in advance of the submission of any reserved matters application. As this is only an outline planning application at this stage and layout is not being considered, a condition to secure an archaeological evaluation would be appropriate and would accord with paragraph 189 and the NPPF as a whole. On this basis potential archaeology can be addressed and the development is acceptable in this regard.

## Ecology

- 2.45 In furtherance to the impacts on the off-site Ramsar/SPA discussed below, regard must be had for whether the development would cause any harm to habitats or species on or adjacent to the application site, in accordance with paragraphs 170, 175 and 177 of the NPPF. In addition, regard must be had for Natural England's Standing Advice. The application was supported by a Phase 1 Ecological Appraisal which considered both the flora and fauna of the site.
- 2.46 In summary the submitted report confirms the site consists of a grassed field bounded with small margins of scrub and trees. The semi-improved grassland has the potential to support reptile species due to their varied vegetation, the site therefore has habitats which could provide a potential for protected species. There was no evidence of protected species using the site. In respect of birds using the site, these may be nesting on site and safeguards can be put in place which could include additional surveys if construction work is undertaken during the bird breeding season. Such safeguards have been recommended and these could be controlled by condition.
- 2.47 The initial Phase 1 appraisal did however identify the need for a reptile species survey to be undertaken on the site due to the semi-improved grassland and scrub to the field boundaries. This additional survey was therefore requested before determination, nevertheless, the applicants have submitted an updated Phase 1 appraisal that no longer identifies such a requirement.
- 2.48 The DDC Natural Environment Officer has confirmed that the findings of the submitted ecological appraisals are accepted and subject to the implementation of the full mitigation measures identified and additional measures to encourage and enhance biodiversity across the site; there is no ecological constraint to development. All of these measures can be addressed through planning conditions.
- 2.49 The proposed layout allows additional planting to provide landscaped areas where new trees can be planted. New planting would need to consist of a mix of native species which could be controlled by suitable conditions. Overall the proposals are acceptable in respect of the protection of ecology and protected species and the conservation and enhancement of biodiversity in compliance with the aims and objectives in the NPPF, especially paragraphs 170 and 175.
- 2.50 In respect of existing trees there are some mature trees located along the boundaries of the site, along with some hedgerow. No significant tree loss is proposed on the site, most existing trees and hedgerows on site are situated around the field boundaries and are to be retained. The impact on those to be retained and the necessary protection measures including root protection zones can be controlled by conditions.

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

- 2.51 The impacts of the development are considered and assessed in this report. It is also necessary to consider 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.
- 2.52 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.

- 2.53 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. 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.
- 2.54 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.
- 2.55 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. A contribution of £2,322.43 is therefore sought to this effect.

#### Drainage and Flooding

- 2.56 The site lies within Flood Risk Zone 1, where there is the lowest risk of flooding. However, given the size of the site, it is appropriate to consider whether the development would be likely to lead to localised on or off-site flooding. The NPPF, paragraph 163, states that local planning authorities should ensure that flooding is not increased elsewhere and priority should be given to the use of sustainable drainage systems. In furtherance to this, the Planning Practice Guidance states that sustainable drainage systems should be designed to control surface water run-off close to where it falls and replicate natural drainage as closely as possible.
- 2.57 A Drainage report and FRA have been submitted in support of the application which confirm that infiltration drainage is suitable on this site. It is proposed to deal with all surface water and run-off by soakaways into the subsoil below so that there will be no increase in run-off from the site as a result of the proposed development. With an underground tank for each soakaway to allow storage capacity for storm water.
- 2.58 This method of surface water disposal is considered acceptable for this site with KCC Flood and Water Management, the Lead Local Flood Authority, raising no objection subject to conditions relating to further testing and final details in respect of the surface water drainage measures and management and verification of the approved scheme. The proposed drainage measures for this outline proposal are therefore considered acceptable at this stage, subject to conditions, further testing and details that could also be considered at a Reserved Matters stage.
- 2.59 Southern Water supplies foul waste at this location and they have raised no objection as they can provide foul sewage disposal capacity for the proposed development. They advise that they would require a formal application for a connection to the public sewer to be made by the applicant or developer. The

proposal is therefore acceptable in this regard and complies with the NPPF.

### Planning Contributions

- 2.60 The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (CIL Regulations) require that requests for development contributions of various kinds must comply with three specific legal tests, being necessary, related to the development, and reasonably related in scale and kind.
- 2.61 Policy CP6 of the Core Strategy requires planning applications to provide an appropriate mechanism to ensure that any necessary infrastructure to support the development can be secured at the time it is needed. This policy therefore confirms the need to address any increased infrastructure needs as part of the application process. Such needs would normally be addressed in a s106 legal agreement, as long as all provisions comply with the relevant tests outlined in the NPPF and planning policy guidance. It is considered that the tests have been duly applied in the context of this planning application.
- 2.62 In accordance with Policy DM27 of the LALP, the development would be expected to provide Open Space on site, or a contribution towards off-site provision, to meet the Open Space demands which would be generated by the development. Given the scale of the development, it would give rise to a need for 0.2387ha of accessible green space. The developer is not proposing to provide the provision of public open space and therefore there is a requirement for a contribution towards the provision of open space, in terms of a children's play space and an outdoor sports facilities contribution.
- 2.63 In respect of a children's play space there is a requirement for the provision of 0.0065ha. No play space is being provided on site and the closest local play space is Travers Road, a distance of 1.3km from the site. It has been calculated that a proportionate contribution of £27,436.63 is therefore necessary towards the upgrading of these play facilities. In terms of the outdoor sports facilities and an outdoor sports requirement for this proposal it would generate a need for 0.1258ha. It is not practical for this to be provided on site and there is a need to improve the pitch quality at Deal and Betteshanger Rugby Club. It has therefore been calculated that a proportionate contribution of £17,975.22 is necessary towards this outdoor sports provision to be secured through a s106 agreement. With the payment of these contributions, the proposal would accord with Policy DM27 of the Core Strategy.
- 2.64 KCC Economic Development have advised that the development would increase demand for local facilities and services and where there is currently inadequate capacity to meet this additional need, contributions should be sought to provide infrastructure improvements proportional to meet the need generated. In this instance, KCC have advised that there are insufficient primary school and secondary school provision to meet the needs of the development.
- 2.65 The proposal would give rise to additional school pupils and the need can only be met through the Phase 2 expansion of Deal CE Primary School. A contribution of £3,324 per dwelling has been requested from this development to meet the need identified. KCC have also requested a contribution of £4115 per dwelling towards the Phase 2 expansion of Sir Roger Manwood School where there is an additional demand for 8 pupils.
- 2.66 In addition, contributions of £2016.66 towards a 'Digital Den' technology cart at Deal Library for 5-11 year olds. These contributions all ensure that the needs generated by the development would be met. It is considered that each of these requested

contributions are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

- 2.67 NHS CCG have not identified a need for a contribution on the development.
- 2.68 The applicant is in the process of agreeing the Heads of Terms in relation to these contributions, that are considered necessary to make the development acceptable in planning terms. The Heads of Terms are:
- Primary education – towards Phase 2 expansion of Deal Parochial CE Primary School of £139,608 in total
  - Secondary Education- towards Phase 1 expansion of Sir Roger Manwood School of £4115.00 per dwelling or £172,830 in total
  - Library - contribution towards a 'Digital Den' at Deal library of £2016.66
  - A total of £2,322.43 is required as a contribution towards the Thanet and Sandwich Coast Management Strategy
  - An off-site local equipped play space contribution towards Travers Park of £27,436.63
  - An off-site public open space contribution for outdoor sports facilities at Deal and Betteshanger Rugby Club of £17,975.22
  - Monitoring per trigger event of £236 per event
  - Payment of all associated legal costs.
- 2.69 The full range of contributions required by the development are being met by this proposal.

#### Other Material Considerations

- 2.70 The likelihood of contaminants on site is limited/low due to the previous use of the land, nevertheless, as the proposed end use is residential it is susceptible to risks of contamination. A condition would however be required to ensure that should any contamination be identified during construction then further investigation and remediation and/or mitigation measures would need to be submitted and approved. Such a condition would appropriately address any potential contamination of the site.
- 2.71 An Air Quality Screening Report has not been submitted with the application. To comply with the Kent and Medway Air Quality Guidance Documents and in line with best practice it is expected the installation of electric vehicle charging points should be required for this application, to be required by planning condition. Along with measures to prevent dust for residential receptors and appropriate dust mitigation measures that can be controlled through a construction environmental management plan condition.
- 2.72 The Kent Police Crime advisor has no objection subject to a condition being imposed to submit details for approval which accord with the principles and physical security requirements of Crime Prevention through Environmental Design.
- 2.73 External lighting details have not been submitted but would need to be appropriately mitigated at reserved matters stage. Other matters such as cycle parking, refuse storage and materials will be required to be submitted at reserved matters stage and would not be subject to outline conditions or scrutiny at this stage.

### **3. Conclusion**

- 3.1 In terms of planning policies, development of this site outside the settlement confines has been shown to be acceptable in principle and is in accordance with policies DM11, DM25 and DM16 of the Core Strategy and the NPPF, in particular paragraph 11 that identifies that development should be approved unless there is material harm that outweighs the benefits of the proposal.
- 3.2 In addition, there are no development plan policies or policies in the Framework that suggest development should be refused. When weighing up the benefits of the development identified in the report, although there is a large proportion of local objection to the proposed development, there are no clear planning reasons that would significantly and demonstrably outweigh the benefits of providing additional housing on this site within the district, including the provision of 30% affordable housing.
- 3.3 The proposed development of 42 dwellings will be a substantial addition to the availability of housing sites within the district and will contribute towards the 629 units per annum now required under the standardised methodology for the calculation of housing need. The additional housing will also have social, economic and environmental benefits and overall is considered to be sustainable. In addition, the relevant contributions towards local infrastructure costs have largely been agreed in principle, including education and open space contributions.
- 3.4 Initial concerns from KCC Highways have also been overcome following additional information submitted. KCC Highways consider the revised proposals to be acceptable, subject to necessary conditions and agreements. The proposed impact on the highway is therefore not severe and accords with paragraph 109 of the NPPF, the impact on the local highways is consequently acceptable.
- 3.5 The proposal in this outline application therefore accords with relevant development plan policies, the NPPF and is acceptable in principle. All other matters raised can be adequately addressed by planning conditions. Consequently the application is recommended for approval, subject to conditions and a suitable s106 legal agreement to secure the required contributions.

**g) Recommendation**

- I. PLANNING PERMISSION BE GRANTED subject to a Section 106 legal agreement to secure necessary planning contributions and subject to the following conditions to include:
  - 1) Reserved matters details
  - 2) Outline time limit
  - 3) Approved plans
  - 4) Existing the proposed site levels and building heights
  - 5) Ecological mitigation, enhancement and recommendations implemented and maintained
  - 6) Construction Management Plan
  - 7) Highway conditions (parking, visibility splays, highway works fully implemented, turning facilities, cycle parking, gradient, surface, works to all footpaths and drainage and EVC charging points)
  - 8) Affordable housing provision (numbers, type, tenure, location, timing of construction, housing provider and occupancy criteria scheme)
  - 9) Landscaping Details and maintenance of green spaces
  - 10) Protection of Trees and Hedges
  - 11) Hard landscaping works and boundary details/enclosures
  - 12) Reporting of unexpected land contamination
  - 13) No works on site until final SuDS details are submitted

- 14) Design details of surface Water drainage strategy
- 15) Implementation and verification of SuDS scheme
- 16) Environmental Construction Management Plan
- 17) Internal acoustic requirements for dwellings
- 18) Programme of archaeological works/excavation
- 19) Details to be submitted at reserved matters for compliance with Secured by Design principles

- II. Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions and to agree a s106 agreement in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Lucinda Roach