

- a) DOV/19/00287 – Erection of a building containing 20 apartments with 14 car-parking spaces at ground floor and erection of a retaining wall following demolition of existing retaining wall - Former Playground, North Military Road, Dover

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

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policies and Guidance**

Core Strategy Policies

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

Land Allocations Local Plan

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

National Planning Policy Framework 2019 (NPPF)

- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where

there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including where an LPA cannot demonstrate a five year housing land supply), granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance (set out in footnote 6) provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole
- Paragraph 12 states that the NPPF does not change the statutory status of the development plan.
 - Chapter five of the NPPF confirms that the Government's objective is to significantly boost the supply of homes and requires authorities to seek to deliver a sufficient supply of homes, based on a local housing need assessment. The size, type and tenure of housing for different groups in the community should be assessed and reflected in policies. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless:
 - 1. off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
 - 2. the agreed approach contributes to the objective of creating mixed and balanced communities

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

- Chapter seven supports the role that town centres play at the heart of local communities and seeks to promote their vitality and viability.
- Chapter eight promotes healthy and safe communities. This includes the promotion of social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Developments should be safe and accessible, so that crime and disorder and the fear of crime and disorder do not undermine the quality of life or community cohesion.
- Chapter nine promotes sustainable transport, requiring that the planning system should actively manage patterns of growth in support of this objective; although opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Chapter eleven requires that land is used effectively, having regard for: the need for different types of housing and the availability of land suitable for accommodating it; local market conditions and viability; the availability and capacity of infrastructure and services (including the ability to promote sustainable travel modes); the desirability of maintaining an area's prevailing character; and the importance of securing well-designed, attractive and healthy places. Where there is an anticipated shortfall of land to meet identified need, low densities should be avoided.

- Chapter twelve confirms that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning policies and decisions should ensure that developments:
 - a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

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

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

The Kent Design Guide and National Design Guide

- These guides provide criteria and advice on providing well designed development.

d) **Relevant Planning History**

DOV/92/01095 – Outline - residential development - Granted

DOV/98/00763 – Mixed use development (loft apartments/gym/restaurant) – Granted

DOV/98/00763/A – Amendments to approved scheme – Granted

DOV/03/01380 – Renewal of permission DOV/98/763 - for mixed use development – Granted

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

KCC Highways – *Initial comments received 4th April 2019:*

The development provides fewer space than the maximum recommended provision for such a location. The road is wide and can accommodate the existing, and some additional, on-street parking. As such, the demand for on-street parking from the proposals is unlikely to have a severe impact on the existing situation in North Military Road. However, amendments to the scheme are required regarding vehicular and pedestrian visibility splays; the width of some parking spaces; cycle parking provision; and details regarding the vehicle crossing.

Further comments received 5th June 2019:

The 43 metre splay to the north east can be measured to a point 1 metre off the nearside edge of carriageway but it appears to be further out than this so should be amended. The splay to the south west appears to be the right length but just isn't dimensioned. The 1 metre x 1 metre pedestrian splays are not in the correct location (they should be behind the footway), however it appears the one on the south west side can be achieved and therefore conditioned. Vehicles exiting are likely to be on the south west side of the opening and therefore the splay on the north east side is available within the total width of the access. The cycle parking now looks much more usable.

Historic England – No comments.

DDC Waste Services – The applicant should discuss the scheme with Waste Services.

DDC Heritage Team – The site lies adjacent to The Western Heights Dover which is a scheduled monument and conservation area. The proposal for a new apartment block of six storey's has the potential to have a visible impact on the wider setting from several mid to long distance vantage points assessed below:

Effingham Street is a key location within Dover College Conservation Area and is adjacent to the St Martins Priory Scheduled Monument and a large number of Grade II and II* listed buildings. This area is therefore particularly sensitive to new development. At present, the trees around the application site and its vicinity provide dense screening and a soft backdrop: the proposed development has been designed following the topography of the site. I form the view that the ability to appreciate the designated heritage assets will remain unaffected by the proposal and the new apartment block will add to the density of the existing development on the high ground above Folkestone Road, and will largely be contained within the dense green vegetation having no greater impact than the existing buildings from this view point.

Worthington Street has a very long distant view from the Town Centre Dover Conservation Area, the site's wider context when viewed from this position includes four and five storey residential blocks of no architectural merit and only a minor section of the proposed building is likely to be visible, it is unlikely that the development would cause harm from this vantage point.

Castle Hill, the site from this vantage point would be seen as a minor built element within an extensive vista of the town centre, it is unlikely that the development would be of such a scale that it would significantly impact upon these views.

The Western Heights, I have viewed the site following the paths above the application site. It was clear that the upper storeys of the site would be visible above the tree line but would not harm views of the Dover College site within this context as there is other intervening development when viewed from the designated pathways. The proposed design also mitigates any possible visual impact by including a green roof to the top floor as well as terraces with planting.

Recommendation:

The proposal would have no harm on the significance of designated heritage assets as defined by paragraph 196 of the NPPF. Western Heights and its conservation area cover a very large area composed of the scheduled monument and manmade landscape features with dense vegetation. This proposal will only impact visually on a very small, minor part of this setting, its significance will not be harmed.

I have seen no details relating to any possible utility items being considered for the roof and recommend that appropriate conditions are considered to ensure they are discreetly located on the proposed building.

DDC Ecology – The development poses no major concerns. Whilst the site is approximately 1km from the Folkestone Warren SSSI, the site falls under the threshold of 100 dwellings. However, the development will need to comply with the Thanet Coast and Sandwich Bay SPA mitigation strategy. Whilst the site is downhill of the chalk grassland habitat of the adjacent Western Heights local nature reserve and local wildlife site, consideration should be given to dust suppression during construction. The ecological enhancements within the report should be followed.

Natural England – The development will need to comply with the Thanet Coast and Sandwich Bay SPA mitigation strategy. Advice is provided regarding the potential need for an appropriate assessment, the need to consider protected species, trees and woodland, and priority habitat.

DDC Environmental Health – No objections, subject to conditions regarding contamination and to secure a construction management plan.

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

Environment Agency – No comments.

KCC Economic Development – Request that a contribution of £960.32 be secured to provide additional book stock at Dover Library. No other contributions are sought.

KCC SUDS – *Initial response received 21st March 2019:*

No surface water drainage strategy has been provided. Such a strategy should be provided prior to determination.

Further comments received 6th June 2019:

The surface water solution proposed is based on the assumption that infiltration will be possible on site, on checking we confirm that the British Geological Society's website shows the site as being underlain by chalk bedrock which should mean infiltration is possible. However, no information/calculations have been submitted so as to prove that the proposed soakaway feature is sufficient to prevent flooding from occurring and conversely that sufficient space exists on site for the feature. KCC cannot recommend approval until this information is received.

Further response received 20th September 2019:

Whilst the underlying geology has been identified as being highly compatible for infiltration, it has been mentioned within the Surface Water Management Strategy report that wartime tunnels are located adjacent to the site boundary and the only available space for infiltrating features is land at a significantly higher elevation and on a slope. On this basis, infiltration has been ruled out as an option. Whilst it is unfortunate that infiltration cannot be utilised, we agree to the proposal for a controlled discharge rate into the surface water sewer on Durham Road and acknowledge that it is an improvement on the existing scenario. Should your authority be minded to grant permission for the above development, it is recommended that conditions be attached to secure the submission and approval of a detailed surface water drainage scheme and a post implementation verification report.

Southern Water – No response

Kent Police – The applicant/agent has not yet fully demonstrated designing out crime. This was discussed with the applicant and a number of recommendations have been made, primarily relating to detailed matters such as management of car parking, boundary treatments, door access and window and door certification.

Dover Town Council – Support, subject to compliance with the recommendations of county highways.

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

- The building is too large
- The development will dwarf neighbours and the landscape
- The development is out of character
- The building would be imposing
- The drawings are difficult to interpret
- The building should be set back from the boundaries/the building is too close to neighbours
- Insufficient parking and congestion
- Overshadowing and loss of light to neighbours
- Too many flats are proposed
- Insufficient infrastructure
- It is questioned whether the site is greenfield or brownfield
- The existing wall should be stabilised not replaced
- The site cannot be accessed by fire engines
- Regard must be had for the impact on views from the Scheduled Monument and nature reserve.

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

- The scheme is well researched and designed
- The flats are not crammed in and offer something new for Dover
- The scheme will improve Dover's housing stock and promote regeneration

f)

1. The Site and the Proposal

- 1.1 The site lies within the settlement confines of Dover around 200m from the town centre and around 300m from dover Train Station. The areas to the north and east of the site are urban in character, predominantly comprising housing; however, the land immediately to the south and west is undeveloped and forms part of the Western Heights Local Wildlife site. This area directly abutting the site is also designated as the Western Heights Dover Conservation Area (although the proposed building would be located outside of the Conservation Area). Towards the centre of the Conservation Area and around 140m to the south of the site are the brick built fortifications of the Drop Redoubt. The Western Heights, including the land around the brick fortifications of the Drop Redoubt, is a designated Ancient Monument. The site lies within an area of archaeological potential.
- 1.2 Being close to the town centre, the development round the site is relatively high density, typically between three and five storeys in height, although some taller buildings can be found closer to the town. It is also important to note that the buildings directly around the site (former Kingdom Hall and St Johns Ambulance Station) are single storey.
- 1.3 The topography of the site and its surroundings is notable. Whilst the site itself is relatively flat, it sits approximately halfway up the hillside below the Drop Redoubt. The site is cut into the hillside to form a terrace, with retaining walls around its boundaries, beyond which are trees (predominantly sycamores which appear to be self-seeded). The site is covered in hardstandings.
- 1.4 This application seeks permission for the erection of a building containing six floors to provide 20 flats with parking at ground floor level. The building would be staggered to its north eastern elevation whilst the top floor would take the form of a penthouse set in from the boundaries of the site. A replacement retaining wall would be provided. The building is of a crisp contemporary design and would be finished in a pale terracotta/reddish brick, with glazed walls and metal shades and trellis, under flat roofs/balconies which would be part tiled and part 'green roof'. Windows and doors would have 'bronze' frames around glazing.

2. Main Issues

- 2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the area and the historic environment
- The impact on neighbouring properties
- The impact on the highway network
- Affordable housing and contributions

Assessment

Principle

- 2.2 The site lies within the settlement confines of Dover and, as such, the principle of the development is acceptable, being in accordance with Dover Core Strategy Policy DM1. The NPPF also recognises that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites. Whilst the site is outside of the town centre, it is located reasonably close to the town centre such that the development would likely provide additional custom. It is therefore concluded that the principle of the development is positively supported by the NPPF.

Character, Appearance and Heritage

- 2.3 Regard must be had for how the development would impact upon the heritage assets which are within the vicinity of the site, and their settings, having regard for the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 'Act'). Section 66(1) of the Act states that, 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.' As such, it is necessary to have 'special regard' for whether the development would preserve the listed buildings in the vicinity and their settings. Section 72(1) of the same Act, requires that 'special attention' is given to the desirability of preserving or enhancing the character or appearance of a conservation area. Additionally, the NPPF requires that regard must be had for whether the development would harm the significance of both designated and non-designated heritage assets and, where harm is identified (either substantial or less than substantial), consider whether this harm is outweighed by public benefits.
- 2.4 There are no listed buildings within or directly adjacent to the site and the site is not within any Conservation Area. However, the site lies adjacent to The Western Heights Dover Conservation Area. Within the Conservation Area and to the south of the site is the Drop Redoubt which, together with the landscape around it, forms part of the Western Heights Ancient Monument. In the wider area is the Dover College Conservation Area, St Martins Priory, which is a Scheduled Monument and, around this Conservation Area, a large number of Grade II and II* listed buildings. Regard must also be had on the impact to the Town Centre Dover Conservation Area. Given the sites elevated position, regard must also be had both for the closer views which are attainable from North Military Road and the longer views from around the town.
- 2.5 The proposal is for a six storey building rising up to 18m above the current ground level on site. The ground floor level itself would be set partially below the level of the road which rises from north east to south west. The third, fourth and fifth floors would be of ever decreasing width, such that these floors would step in from the north eastern boundary of the site. The first, second, third and fourth floors would also be stepped away from the retaining wall to the south eastern boundary of the site, whilst the fifth floor would additionally be stepped away from the south western and north western (street fronting) boundaries. At present, the trees around the site and its vicinity provide varying degrees of screening and a soft backdrop.
- 2.6 The site would be highly visible from a section, approximately 250m in length, of Military Road/North Military Road. In this view the building would be read as

part of the street scene and viewed in conjunction with the buildings to the north and east of the site.

- 2.7 The building would be located adjacent to the footway/road, such that it would directly front onto the road. The majority of buildings in the vicinity are set slightly back from the road, so the layout of the building on the site would differ from the prevalent character in this respect. However, there is a degree of variation which lends some licence to variation in this regard. Moreover, the building would, as will be set out later in this section, create a landmark building such that increasing the prominence of the building in some views (for example through stepping the building closer to the road so that its presence in views from the north east is increased) may be desirable. Consequently, it is not considered that the positioning of the building is inappropriate.
- 2.8 The building would also be significantly taller than the buildings in its immediate vicinity. Whilst the difference in height between the proposed building and its immediate neighbours would be visually unambiguous, it is not considered that this relationship would be stark, as the building would be seen within the context of the larger flat blocks to the north east. These flat blocks, which range from three storeys in height to five storeys in height define the overriding character of this part of Dover. Whilst the proposal would be taller still than these buildings, it is set within the hillside, such that its bulk is less prominent. The architect has also used architectural devices to reduce the perceived height and bulk of the building, such as: breaking up the width of the building with vertical features; providing large openings within the elevations which would have a strong rhythm across the façade; staggering the north eastern elevation so that the upper floors of the building are of a reduced width and setting the top floor in from the front and side of the building to reduce its prominence in views. Overall, it is considered that the clever and innovative design of the building, its relationship with other large buildings and its location ‘within’ the hillside produce a development whose scale would not appear out of place.
- 2.9 The architectural style of the building also takes a departure from the mid C20th flat blocks and terraced housing which are ubiquitous in this part of Dover. However, whilst these forms of building are widespread, they are of mixed architectural quality and do not create a strong character which would be desirable to replicate. Instead the architect has chosen to pursue a contemporary style, but has sought to make the building more locally distinctive by referencing the key features of the Drop Redoubt; namely through the use of red brick and the use of splayed window openings which mimic the splayed gun embrasures of the fortifications. The scheme also seeks to relate the building to the vegetation which characterises the hillside, by introducing green roofs and planters. The result is, it is averred, distinctive, rooted in Dover and visually attractive.
- 2.10 Overall, it is considered that in close views of the building the scheme would sit comfortably in the street and against the hillside, whilst providing a high quality building which would positively contribute to the built environment.
- 2.11 In addition to the closest views, it is also necessary to consider how the building would be seen from wider viewpoints and, in particular, how it would impact heritage assets.
- 2.12 From the east the site would be seen from Worthington Street, which is located within the Town Centre, Dover Conservation Area. In this view, the foreground is dominated by the three, four and five storey blocks of flats around

Lancaster Road and Durham Hill. The councils Heritage Team have advised that, in their opinion, these foreground buildings are of no architectural merit and I concur with this view. As such, the view from Worthington Street is already significantly impacted. Furthermore, the existing buildings would largely screen views, such that only a small section of the proposed building would be visible. Given the limited views that would be gained and the context within which the proposed building would be seen, it is not considered that this view would be significantly impacted by the development.

- 2.13 Effingham Street, to the north of the site is a key location within Dover College Conservation Area and is adjacent to the St Martins Priory Scheduled Monument and a large number of Grade II and II* listed buildings. This area is therefore particularly sensitive to new development. The site is elevated above Effingham Street by around 17m. The trees around the application site and its vicinity provide dense screening and a soft backdrop in views from Effingham Street. These trees are viewed over the roofs of buildings on Folkestone Road which form the foreground of views from Effingham Street. The proposed development has been designed following the topography of the site. A section has been provided through the application site, the hillside, Folkestone Road and Effingham Street to demonstrate that due to the topography of the land, the buildings on Folkestone Road and the height and density of tree cover, the proposed building would not be prominent in views. Whilst reliance cannot be entirely placed on trees to screen the development (for example their ability to provide screening in the winter is reduced), the applicant has sought to use earthy tones in the finish of the building so that it does not stand out when glimpsed through the trees in the foreground or against the hillside behind. Consequently, I concur with the Heritage Team who have concluded that the development would cause "no greater impact than the existing buildings from this viewpoint".
- 2.14 The hillside to the south of the site contains public rights of way below the Western Heights. These public rights of way include a path which leads from North Military Road adjacent to the south western boundary of the site up the slope towards the Drop Redoubt. Views of the site can be achieved from these paths until you pass over a ridge around 60m from the site. The building would extend beyond (i.e. higher than) the retaining wall, but the land quickly increases in height beyond this. The upper storeys would be visible from these paths, albeit trees to the south of the site would provide some filtering of views. Additionally, the proposed green roof treatment to the building would also mitigate the visual impact from this view. Importantly, views from the paths towards Dover College would not be harmed, as these views already take in much development. The Heritage Team have therefore identified no harm to heritage assets from these views. Whilst I concur with this assessment, it is considered that the development would impact upon the more general character of a small section of this land, which is well used by the public. However, given that the development would only be visible within a limited area, that the building would be seen in the context of other development (i.e. the building would not impact upon an 'unspoilt' view) and given that the visual impact of the development is somewhat mitigated by vegetation and the design of the building, I consider that this visual impact is, at worst, limited.
- 2.15 Views from the west are predominantly screened by buildings and vegetation and, as such, it is not considered that the development would cause any significant visual impact in views from this direction.

- 2.16 The site is visible in long views from Castle Hill, a distance of a little under 1km away. The proposed building, whilst visible, would be seen as a small component of an expansive vista and, consequently, the developments impact on views of Castle Hill would be negligible.
- 2.17 The Heritage Team have concluded that the development would not harm the settings of any heritage assets (Listed Buildings, Conservation Areas or Ancient Monuments) and, for the reasons outlined, I concur. Historic England have raised no objections.
- 2.18 Whilst the design of the building is acceptable, and would not harm the settings of any heritage asset, particular care must be taken to ensure that the detailing and use of materials is appropriate such that the envisaged quality is achieved. It is therefore considered that conditions should be attached to any grant of permission to require: samples of materials; full details of window and door frame, including their material and finish; details of window reveals; details of copings and window surrounds; details of any railings or screens to balconies; details of soft landscaping, including to balconies, planters and roofs, together with details of maintenance; and details of any plant, ventilation systems, vents, flues, satellite dishes, antennae and utility boxes to be provided to the exterior of the building.
- 2.19 Overall, it is concluded that the development would provide some visual enhancement of the townscape, providing a high quality, locally inspired addition to the built environment. Whilst there would be some impact on a limited section of the hillside to the south of the site, there is also a benefit in regenerating the site and tidying up what is currently a visual detractor in the street. Regard has also been had for the statutory duties on Local Planning Authorities to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest they possesses and to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

Impact on Residential Amenity

- 2.20 To the north east of the site is a St Johns Ambulance, which is non-residential. The closest property to the east is No.7 Bowling Green Terrace, which is some 27m away (albeit this distance increases as the building steps away from this boundary). The land immediately to the east of the site is also treed, providing some additional screening. Given the separation distance and orientation (to the west), it is not considered that the development would cause a significant loss of light or sense of enclosure, with the trees further reducing the likely impact. Whilst the north east elevation of the proposed building contains windows and balconies, it is considered that whilst some overlooking would be caused, this would not be so significant that it would warrant the refusal of the application.
- 2.21 To the northern side of North Military Road are four dwellings within the former Kingdom Hall. The closest of these, Castle View, is approximately 14m away from the site. The building would rise to 15.2m at the boundary of the site with North Military Road, with an additional 2.8m in height being set back from the frontage by around 2.8m. Given the scale of the building and its position to the south of the four dwellings, particular care needs to be taken to assess the potential for the development to cause: a loss of sunlight and daylight; a sense of enclosure; and overlooking to these four dwellings. The site sits adjacent to the hillside, with a retaining wall to its rear elevation. Whilst the building would

project above the retaining wall, it would sit well below the ridge. Moreover, the building would be lower than some of the trees on the land to the south. Consequently, whilst the development may cause a reduction in morning sun, it is not considered that this would be sufficient to warrant refusal. Likewise, although the building would be tall, given that it would replace a view of the retaining wall and, whilst being closer than the wall, would be set away from the nearest neighbour by around 14m, it is not considered that the development would create an unacceptable sense of enclosure. Turning to overlooking, opposite Castle View and the other three dwellings would be opposite the windows and balconies to the right hand side of the central atrium. Overlooking from the upper floors would be limited due to the angle of view; however, views from the lower floors towards the windows of neighbours would be possible, at a distance of around 14m in respect of Castle View and around 16m in respect of Sunnybank (Hillside and Woodlands being slightly further away and at a more acute angle to the development). The front elevation of Castle View (facing the development) contains a glazed door and one small window, possibly serving a bathroom (the front elevation of this unit differs from the approved drawings for the conversion). Even if this window serves a habitable room, I am of the opinion that given that this window is in full view of the footpath and given the separation distance to the proposed windows, an unacceptable degree of overlooking would not be caused.

- 2.22 It is not considered that there are any other properties which would likely be affected by the proposals. Consequently, it is considered that the development would not result in an unacceptable loss of residential amenity to any neighbour.
- 2.23 The construction phase has the potential to cause unacceptable impacts on the living conditions of neighbours, given that the building would relatively close to neighbouring properties. It is also noted that the development would utilise the entire footprint of the site, such that there would be nowhere on site to store materials or plant, or park construction vehicles. Consequently, Environmental Health have recommended that, should permission be granted, a condition be attached requiring that a Construction Management Plan be submitted for approval. Subject to such a condition, it is considered that impacts from this phase could be suitably mitigated.
- 2.24 Turning to the living conditions of future occupiers, all flats would be of reasonable size and would be naturally lit and ventilated. The applicant has submitted a Daylight and Sunlight Assessment which was carried out in accordance with Building Research Establishment (BRE) Guidelines. The assessment utilises standard modelling to calculate the levels of light reaching windows within the development, having regard for the existing topography which is an important factor in this location. The assessment concludes that all assessed rooms in neighbouring properties would receive an acceptable provision of natural daylight set out in the BRE Guidelines and British Standard 8206-2:2008: 'Lighting for buildings – Part 2: Code of practice for daylighting'. A separate refuse storage area for the residential units would be provided at ground floor level. For these reasons, and subject to conditions, it is considered that the living conditions of future occupiers would be acceptable.

Impact on the Local Highway Network

- 2.25 Policy DM13 of the Core Strategy requires developments to provide sufficient car parking, having regard for the scale of the development and its location. DM13 does, however, acknowledge that car parking provision should be designed. The site is considered to be in a 'edge of centre' location. In such locations,

Table 1.1 of the Core Strategy advises that dwellings should be provided with a maximum of one car parking space per dwelling (although a maximum of 1.5 spaces should be provided for a 4 bed unit, of which there is one proposed), whilst visitor parking at a rate of 1 space per 5 dwellings should be provided. The development would provide 13 car parking spaces at ground floor level, i.e. seven spaces less than the advised maximum provision and without provision of the four visitor spaces recommended. It is important to note that, in sustainable locations, car parking provision is expressed as a 'maximum', in order to promote more sustainable forms of transport. In this case the train station and the nearest bus stops, all of which offer regular services, are around 300m walking distance from the site. The defined town centre is around 200m away. The site is therefore situated in a location where a car is not essential for all occupiers and where the lack of dedicated spaces may attract occupants who do not own, or do not wish to own, a car and will instead opt for more sustainable forms of transport. That said, North Military Road which is a relatively wide road often has few parked cars on the road, particularly to the west of the site. The road is therefore capable of accommodating some additional on street parking without causing a significant adverse impact on the highway. For these reasons, it is considered that the level of parking is acceptable.

- 2.26 The ground floor car park is considered to be of sufficient size to allow vehicles to manoeuvre, access a car parking space, turn and leave in a forward gear.
- 2.27 Concern has been raised by KCC Highways that the pedestrian and vehicular visibility splays are not shown on the drawings correctly. Whilst I concur that they have not been shown correctly, I am satisfied that as vehicles would be likely to exit the car park towards the centre of the access, adequate visibility of pedestrians on the footway would be achieved. Given the speed of vehicles using North Military Road, KCC have requested that vehicular visibility splays of 43m x 1m x 43m be shown. Again, these splays have not been shown in the correct location. When drawn correctly, visibility to the south west could be achieved, subject to yellow lining, and can be conditioned. However, visibility to the north east would be limited to around 35m. Whilst this is below the recommended visibility, I am mindful that vehicles travelling from this direction would be travelling around a bend and uphill, such that speeds may be reduced. The test is whether the proposal would cause an unacceptable impact on highway safety or a severe residual cumulative impact on the road network. On balance, whilst not ideal, I am not persuaded that the development would cause a level of impact on the highway that would warrant refusal.
- 2.28 Having regard for the reduced provision of car parking, the ground floor area would include the provision of cycle parking for 40 cycles. This equates to just over one space per bedroom (the 20 flats provide 37 bedrooms). It is considered that this level of provision is sufficient to ensure that the development suitably promotes cycling as a sustainable form of transport.

Flood Risk and Drainage

- 2.29 The site lies in Flood Risk Zone 1, which has the lowest risk of flooding. Furthermore, the site and the proposed development falls below the thresholds for the requirement of a flood risk assessment or a foul sewerage and utilities assessment. Notwithstanding this, it is still necessary for the development to be provided with adequate foul and surface water drainage, such that the dwellings are properly serviced and the development does not increase the risk of on or off site flooding.

2.30 The existing site is predominantly non-permeable, being largely covered by concrete. As such, the development would be unlikely to significantly increase surface water run-off. However, it would be appropriate to ensure that the proposed development is served by suitable surface water drainage, in accordance with the clear requirement in the NPPF that major development should incorporate sustainable drainage systems except in exceptional circumstances (paragraph 165). The development would also need to be served by adequate foul drainage infrastructure which avoids increasing the risk of flooding on site or elsewhere. Given that the development would occupy the entire footprint of the site, and having regard for the comments of the Lead local Flood Authority, it is not considered that infiltration is feasible. As such, the submitted Surface Water Management Strategy advises that both surface water and foul water will discharge to the public sewer, albeit the site will accommodate a roof planting and a water storage tank which will trap and store water on site to reduce flows and limit discharge rates into the public system. This will manage discharge to the sewer to a rate of no greater than 4.9l/s during a critical storm. Southern Water have been consulted on the proposed system but have not, at the time of writing, provided their response. However, it is noted that the site is already impermeable and is unmanaged and therefore, providing a managed solution would likely reduce the risks of flooding. Should permission be granted, it will be necessary to require, by condition, that full details of the foul and surface water sewerage systems be provided, together with a timetable that ensures that the necessary works (both on site and, if necessary off-site reinforcement works to the network) take place prior to the occupation of the development to ensure that surface and waste water flows are properly managed.

Contamination

2.31 The application has been supported by a Contaminated Land Assessment. This assessment, which has considered the former uses of the site and the likelihood of contamination being encountered during construction or which could be a risk to human health or the environment. The report concludes that there might be some historical made up ground with a potential infill presence of ground gas. As such, Environmental Health have advised that, concurring with the recommendations of the report, a condition should be attached to any grant of permission to secure the recommended contamination work, together with remediation and verification of remediation as necessary. Subject to such a condition, I am satisfied that contamination is not a constraint to development.

Housing Mix, Affordable Housing and Contributions

2.32 This application proposes twenty flats comprising seven one-bed flats, ten two-bed flats, two three-bed flats and one four bed flat. Paragraph 3.43 of the Core Strategy identifies the broad split of demand for market housing:

Number of Bedrooms	Percentages Proposed	Percentages Recommended
One (x7)	35%	15%
Two (x10)	50%	35%
Three (x2)	10%	40%
Four (x1)	5%	10%

The recommended proportions should, having regard for more recent data, such as the Strategic Housing Market Assessment inform the housing mix, albeit these proportions are certainly not rigid. As can be seen from the above

table, the proposal would be significantly skewed towards smaller one and two bedroom properties, at odds with the demand within the District. However, it is understandable that in this location, large family houses are unlikely to be viable (viability will be discussed in more detail below) whilst flat developments which lack garden space are less well suited to family occupation. Whilst it is not considered that the mix is determinative, I consider that the bias towards smaller units carries some, albeit limited, weight against the development.

- 2.33 Core Strategy Policy DM5 requires that for schemes of more than 15 dwellings an on-site provision of affordable housing, amounting to 30% of the dwellings proposed, will be required. The policy also acknowledges that the exact amount of affordable housing, or financial contribution, to be delivered from any scheme will be determined by economic viability, having regard to individual site and market conditions.
- 2.34 Policy CP6 requires that development which generates demand for additional infrastructure will only be permitted if the necessary infrastructure is either in place or where it can be provided. Policy DM27 requires that developments contribute towards the provision of open space to meet the needs which will be generated by the development. However, no requests for contributions have been received for infrastructure such as schools, libraries etc. or for open space provision. A request has been received for library book stock, but no other requests have been received.
- 2.35 The application has been supported by a viability statement which seeks to demonstrate that the development cannot support the provision of affordable housing or the library contribution, making a substantial loss. In accordance with the Council's normal practice, and having regard for the Affordable Housing SPD, the council appointed an independent viability consultant to review the applicants report.
- 2.36 The Council's viability consultant questioned a number of the assumptions made within the submitted statement and sensitivity tested the applicants viability appraisal.
- 2.37 The applicant's consultant has nominally attached a value to the land of £1 which the councils assessor has considered to be an appropriate benchmark in the circumstances. This low, nominal figure provides the least impediment to concluding that the scheme is viable. The units, once completed, have been valued by the applicant's consultant as between £120,000, for the 1-bedroom duplex to the rear of the block, and £400,000, for the 4-bedroom unit. Both the applicants consultant and the councils assessor agree that there is a lack of comparable offerings in the area which can be used to benchmark the predicted sales values of the proposed scheme; however, the council's assessor has reviewed the prevailing values in nearby roads and used their experience from working with the council on other sites in the area to conclude that the predicted sales values "could be on the conservative side" but are not, overall, unreasonable. Likewise, the councils assessors consider that the build costs which have been presented are towards the upper end of the likely range. Other assumptions made by the applicant's consultant, such as finance costs and development timings, are not unreasonable, although a slightly lower finance cost has been proposed by the council's assessor. Whilst there are some areas of disagreement between the applicant's viability report and the council's assessor, these are relatively minor. The scheme as presented shows a very large deficit – with a negative outcome of between £1.84m and £2.29m. As

such, even taking a best case scenario in terms of development costs and sales values, the development is not viable.

- 2.38 Consequently, the viability assessor is of the opinion that the scheme is not sufficiently viable to support contributions. In accordance with Policy DM5, which acknowledges that “the exact amount of affordable housing, or financial contribution, to be delivered from any specific scheme will be determined by economic viability having regard to individual site and market conditions”, and having regard for paragraph 64 of the NPPF and the advice contained within the Planning Practice Guidance, it is considered that the application has demonstrated that it would not be reasonable in this instance to require affordable housing or contributions.

Ecology

- 2.39 The development poses no major concerns. Whilst the site is approximately 1km from the Folkestone Warren SSSI, the site falls under the threshold of 100 dwellings and, consequently, it is not considered that the development would impact on this designation.
- 2.40 It is noted that the site is adjacent to the Western Heights local nature reserve and local wildlife site; however, the site is downhill of this site and, having visited the site, it is considered that the development would not adversely affect any significant habitat or vegetation, with the works instead impacting upon a hardstanding and a retaining wall. Having regard for Natural England’s Standing Advice, it is not considered that the site contains any features likely to provide habitat for protected to notable species. The council’s ecologist has raised no concerns in these respects.
- 2.41 As set out in the residential amenity section, it is proposed to include a condition on any grant of permission to require that a Construction Management Plan be secured by condition. Notwithstanding other potential impacts of the construction phase as previously outlined, it is considered that the Construction Management Plan should also secure the proper management of fugitive dust which, if uncontrolled, could impact upon the ecology of the adjacent land.

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

- 2.42 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.43 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.
- 2.44 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes

disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.

- 2.45 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.
- 2.46 For proposed housing developments in excess of 14 dwellings (such as this application) the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance to a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education). The applicant has agreed to fund this mitigation, which will be secured by a S106.
- 2.47 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.

Archaeology

- 2.48 Whilst the site is in an area where there is a potential for archaeology, the site is located on an existing terrace which is cut into the hillside, whilst there are existing hardstandings on the site. KCC Archaeology have been consulted, but have not provided any comments. From historic map regression it appears that the cut in the hillside was made between 1891 and 1912 to provide land for a small school and associated playground. The school is still shown on maps between 1919 and 1939 but appears to have been demolished by 1960, remaining vacant ever since. Given the time that the cut was made, the amount of material removed by the cut and the previous development of the site, and in the absence of any evidence to the contrary, it is concluded that the development is unlikely to impact upon heritage assets of archaeological significance and, as such, no archaeological conditions are justified in this instance.

Other Matters

- 2.49 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 such plans, unless material considerations indicate otherwise. However, notwithstanding the primacy of the development plan, paragraph 11 of the NPPF 2019 states that where the policies which are most important for determining the application are out of date, 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. Whilst there are other 'tests' for applying the 'tilted balance' these do not apply in this instance, as they are specific to applications for housing. For the reasons stated in this report, it is considered that the development complies

with the development plan. However, it is also necessary to have regard for the NPPF which is an important material consideration.

- 2.50 Paragraph 11 of the NPPF requires that development which accords with an up-to-date development plan should be approved without delay; or, where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date (including where the council do not have a five year housing land supply or where the council have achieved less than 75% of the housing delivery required by the Housing Delivery Test), permission be granted unless the development would fail to satisfy the NPPFs policies in relation to protected areas or assets or where the adverse impacts of the development would significantly and demonstrably outweigh the benefits. This is known as the ‘presumption in favour of sustainable development’ or the ‘tilted balance’. The council can demonstrate a five year housing land supply and has delivered 92% of the housing required by the Housing Delivery Test. As such, the presumption in favour of sustainable development set out at paragraph 11 of the NPPF, or tilted balance’, is not engaged for these reasons.
- 2.51 Having assessed Housing Land Supply and the Housing Delivery Test, it is necessary to consider whether the councils policies are out-of-date. In this instance it is considered that the policies which are most important for determining the application are DM1 and DM11. Policy DM1 seeks to restrict development outside of the settlement confines unless, amongst other things, it is supported by other development plan policies. Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines, unless justified by development plan policies. This report concludes that the development complies with both of these policies.
- 2.52 Policy DM1 and the settlement confines referred to within the policy 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 policy DM1 is in tension with the NPPF, is out-of-date and, as a result, of this should carry only limited weight.
- 2.53 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.
- 2.54 It is considered that policies DM1 is out-of-date, whilst DM11 is, in part, in tension with the NPPF. Policy DM1 is particularly critical in determining whether the principle of the development is acceptable. Having considered the development plan in the round, it is considered that the ‘tilted balance’ is

engaged. As such, the application should be assessed in the context of granting development unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 2.55 The NPPF confirms the government's objective to significantly boost the supply of homes, including the provision of a range of housing to meet different needs. Whilst the council can currently demonstrate a five-year housing land supply, the council have delivered 92% of the homes needed over the past three years. The NPPF encourages housing in sustainable locations, where it would reduce the need to travel and encourage more sustainable forms of transport and where facilities and services are accessible. As set out earlier in this report, the site is close to the amenities of the Town Centre and is well located in relation to public transport links. These conclusions add weight in favour of the development.
- 2.56 The site is considered to be previously developed land, being vacant of buildings but being covered with visible hardstandings, weighing in favour of the scheme.
- 2.57 The development would provide a short term, transitory, economic benefit by providing employment during the construction phase. The development would provide housing which plays a role in facilitating economic growth. The development would also provide a small increase in the local population, which would produce a corresponding increase in spending in the local economy.
- 2.58 In terms of the social role, the proposal would contribute towards the supply of housing supply and would accord with the aim of significantly boosting the supply of housing. The mix of housing proposed diverges somewhat from the identified need and it is considered that this moderates, to a degree, the benefit associated with the provision of housing. The development would not cause significant harm to the character and appearance of the area, subject to conditions regarding the use of materials and landscaping. The development would also be in an accessible location, close to local facilities and services, reflecting the need and support health, social and cultural well-being. The development would increase the use of the highway network; however, it is concluded that the impact of these additional movements would not warrant refusal. The development would cause some impact on neighbouring properties, albeit these impacts are limited and, again, do not warrant refusal.
- 2.59 In terms of the environmental role, the proposal would not cause unacceptable harm to the character of the area. The development would be plainly visible from North Military Road, but would add interest to the street scene rather than detract from it. Views from the public rights of way to the south and longer views from the north and east would be significantly more limited, such that the development would not cause a significant impact from these locations. Likewise, it is concluded that the development would not cause harm to any heritage assets, subject to conditions. The development would not, subject to conditions and obligations, adversely impact ecology or habitats.

- 2.60 Overall, it is considered that there are a number of significant benefits and only limited disbenefits to the scheme, such that the benefits of the scheme outweigh the disbenefits. Consequently, the NPPF requires that permission be granted.
- 2.61 Another material consideration is the planning history for the site. There have been four planning permissions for the site. The first of these was an outline planning permission for a residential development, submitted in 1992. Following this, there was an application for a five storey building with a series of sculptural ‘extensions’ on top of its roof (reaching around three storeys in height). Unusually, the permission was granted with a condition requiring that full details of the elevations, sections and roof plan be provided, as the precise form of the building had not been settled. The building would have provided around 20 dwellings, together with other uses such as a restaurant and offices. The permission was renewed in 2004 and this renewal itself expired in 2009. Whilst this permission is no longer implementable and does not therefore form a fallback position, and whilst it was approved under a different policy context, it remains relevant to the determination of the current application insofar as a development of a comparable scale and overall form as the current proposal has previously been granted planning permission on this site. That said, due to the changes in circumstances since the previous application were granted (principally the changes in national and local planning policy and guidance), it is considered that the weight to be attributed to the planning history of the site carries only limited weight.

3. Conclusion

- 3.1 The site is located within the settlement confines of Dover, which is identified as the ‘major focus for development in the District; suitable for the largest scale developments’. The principle of the development is therefore supported.
- 3.2 The proposal would result in an innovative and architecturally interesting building, which while bold, would be contextually relevant and sensitive to its location. The accommodation, as packaged, would albeit to a modest degree, help diversify and enhance perceptions regarding the Dover housing offer. The scheme would bring renewal and regeneration to an important site close to the town centre and enroute to the Western Height.
- 3.3 The development would cause no harm to the settings of designated heritage assets and is considered to have an acceptable impact on the character and appearance of the area more generally. Subject to conditions and a legal obligation, no unacceptable harm has been identified in respect of: the residential amenities of neighbours or future occupiers; the local highway network; archaeology; ecology; drainage or contamination. Whilst the development would not provide any affordable housing or development contributions towards infrastructure, the application has been supported by viability assessment which demonstrates that the development cannot support these obligations. This assessment has been independently reviewed on behalf of the council and has been found to be robust. It is therefore recommended that permission be granted.

g) Recommendation

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

(1) standard time limits, (2) approved plans, (3) samples of materials, (4) full details of window and door frame, including their material and finish, (5) details of window reveals, (6) details of copings and window surrounds, (7) details of any railings or screens to balconies, (8) details of soft landscaping, including to balconies, planters and roofs, together with details of maintenance (9) provision of access, car parking and turning areas prior to first occupation, (10) details of visibility splays to be provided, (11) provision of cycle parking, (12) provision of refuse storage, (13) detailed scheme for foul water drainage, including a timetable for its implementation, (14) details of surface water drainage, including a timetable for its implementation, (15) contaminated land, (16) details of any plant, ventilation systems, vents, flues, satellite dishes, antennae and utility boxes to be provided to the exterior of the building, and (17) construction management plan.

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

Case Officer

Luke Blaskett