

- a) **DOV/20/00419 – Outline application with all matters reserved for up to 210 dwellings including up to 12 self-build plots, together with up to 2,500 sqm of office (Use Class B1) floorspace and up to 150 sqm of retail (Class E) floorspace - Almond House, Betteshanger Sustainable Parks, Sandwich Road, Sholden**

Reason for report – Number of contrary views (182)

- b) **Summary of Recommendation**

That members resolve that they are minded to grant planning permission for the development subject to a report back to the Dover District Council Planning Committee on the ecology issues and, subject to conditions and a s106 legal agreement.

- c) **Planning Policy 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”

Natural Environment and Rural Communities Act 2006

Section 40 of the NERC Act 2006 imposes a duty on local authorities when exercising their functions, so far as is consistent with the proper exercise of those functions, to have regard to the purpose of conserving biodiversity.

Core Strategy Policies (2010)

CP1 - Settlement Hierarchy
CP3 - Distribution of Housing Allocations
CP4 - Housing Quality, Mix, Density and Design
CP5 – Sustainable Construction Standards
CP6 - Infrastructure
CP7 – Green Infrastructure Network
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

DDC Land Allocations Local Plan (2015)

DM27 - Providing Open Space

Saved policies of the DDC Local Plan (2002)

AS1 – Betteshanger Colliery

The re-use of existing buildings and/or redevelopment of the former Betteshanger Colliery pithead, shown on proposals map for B1/B2/B8 employment uses will be permitted provided:

- i) A survey and evaluation is carried out to determine the extent of any contamination, and remedial measures proposed to ensure development of the site does not pose a threat to human health or nature conservation interests;
- ii) The amenity of neighbouring residential property is safeguarded;
- iii) New buildings are acceptable in landscape terms;
- iv) Adequate highway and site access arrangements can be made and the development is acceptable in terms of travel demand;
- v) Pedestrian and cycle links are made to Deal urban area; and
- vi) Nature conservation and archaeological interests are safeguarded.

In order to fully assess the impact of any proposals, the Council will require the submission of sufficient details of the buildings, landscaping, traffic impact and parking. Additionally, the Council will seek to enter into a legal agreement relating to off-site highway improvements that may be necessary.

Consultation Draft Local Plan Review

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this early stage in the plan making process however, the policies of the draft Plan have limited weight. Consequently, they shouldn't materially affect the assessment of this application and the recommendation as set out. Nevertheless, the updated background evidence base is material and where applicable, a more detailed assessment of these issues will be discussed in the report.

Kent Waste and Minerals Plan 2020

DM7 – Safeguarding mineral resources
CSM5 – Land- won mineral safeguarding

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 91 - Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and

c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

Paragraph 98 - Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

Paragraph 104 - Planning policies should provide for high quality walking and cycling networks.

Paragraph 107 - local planning authorities must have regard to planning policy guidance about coastal access. Efforts to improve public access and enjoyment of the coast should be encouraged where possible.

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, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies

should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

Paragraph 120 - Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

Paragraph 121 - Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

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 149 - Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures⁴⁸. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and 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 174 - To protect and enhance biodiversity and geodiversity, plans should:

a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity⁵⁶; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation⁵⁷; and

b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

Paragraph 175 - When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

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**

DOV/02/00905 - Erection of Class B1, B2 and B8 business, industrial and warehousing units, creation of community park and country park, erection of visitor centre,

construction of recreational cycling facilities and sculpture park and construction of water treatment facilities, access roundabout, roads and car parking facilities – Granted and partially implemented

DOV/17/00451 – Erection of a detached incubation building (B1, B2 & B8) with ancillary café (A3) and associated landscaping and car parking - Granted

DOV/18/00798 – Erection of a new building for use as a winery - Granted

DOV/20/00180 – Request for an EIA Screening Opinion – EIA not required

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

All representations can be found in full on the online planning file. A summary has been provided below of the final round of comments received following the submission of additional and amended documentation and the subsequent two further re-consultation processes:

DDC Regeneration & Policy: Policy AS1 was carried forward from the 2002 Local Plan into the LALP for B1, B2 and B8 employment uses. The Dover Economic Development Needs Assessment (2017) considered that in terms of the suitability of the Betteshanger Colliery site for employment uses, there had been viability issues with the allocated uses given the location. The site was considered to be in a poor location given its relative isolation from the District's main urban areas and existing critical mass of business activity.

DDC is in the process of producing a new Local Plan that will cover the development needs of the District between the years 2020 to 2040. The first stage in the preparation of the new LP, has involved the carrying out of a Housing and Economic Land Availability Assessment (HELAA). The HELAA is an evidence based piece of work which identifies the supply of available, suitable and achievable land for development within the District. As part of the HELAA process existing development plan allocations that have not been implemented were also reviewed. The latest findings of the HELAA were published in March 2020. The HELAA identifies that the Betteshanger Colliery site (HELAA ref NOR005) has not come forward for solely employment uses to date, and that a flexible approach with mixed use development which includes an element of residential (including self-build) may be an acceptable alternative use of the land. The HELAA stipulates that a quantum of approximately 250 dwellings would be suitable for the Betteshanger Colliery site, however some loss in the housing quantum, in terms of the B1 office use proposed in the planning application, would be considered appropriate given its existing allocation, and would provide employment opportunities for the newly created residential dwellings to create a more sustainable development.

DDC Ecology: None of the information supplied within the amended documents alters my professional view of the impacts of this proposed development or the inadequacy of the proposed mitigation and compensation, I therefore sustain my objection to this development.

Compensatory habitat proposals: The proposal put forward by the applicant is largely unchanged from the last iteration of reports. It is to provide 10.5 hectares of compensatory habitat. The majority of this, however, does not constitute new OMH creation in an appropriate part of the Betteshanger country park. Approximately 9 hectares of this area would be an attempt to enhance areas of existing OMH, or to trade one important habitat for another, e.g. by replacing species rich grassland with either scrub habitat or OMH. Enhancement of habitat as a form of compensation is

acceptable in some circumstances, but it is predicated upon the need for that enhancement in the first place. I maintain my professional view that this area of the country park does not currently need enhancing, is not currently at serious risk of dense scrub encroachment and that attempts at enhancement would probably do more harm than good, especially if the applicant goes ahead with their proposal to simply translocate spoil from the development site to the country park. Both sites have been through a unique re-wilding process over the last 31 years since the closure of the colliery and contain an unusual botanical interest, with a number of legally protected and Kent rare plant register species. Translocation of spoil would simply undermine what re-wilding has already achieved and will continue to do in the future.

The Offsite Habitat Compensation Strategy, gives a breakdown of proposed habitat creation and enhancement. One proposal is to replace species rich grassland (in areas G1-G3) with scrub. This is not an acceptable trade off. It's somewhat contradicted by an earlier line in the table stating that scrub will be removed from area G3. Paragraph 3.1.6 refers to '*5.75ha of OMH restoration, creation and enhancement within species-rich grassland or ruderal habitats. This more than compensates for the 4.68ha to be lost under the proposal's.*' I disagree with this view. Following my botanical survey of the country park in September 2020, I also disagree with some of the habitat descriptions given. For example, the OMH management plan describes areas O3, G2 and G3 as being heavily impacted by scrub encroachment. My conclusion was that these areas contained scattered scrub, which is struggling to grow on the nutrient poor substrate. The report goes on to say that '*scattered scrub is recognised as a key component of open mosaic habitat.*'

I maintain my position that the suggestion of using the country park for compensatory habitat creation was contingent upon finding an appropriate part of the park in which to attempt such an exercise, as a last resort, in line with the NPPF requirement to follow the mitigation hierarchy. This meant finding an area of fairly low habitat value, where an attempt could be made to reverse successional processes and create OMH, in order to add to the existing total area within the park. I put forward a proposal for 7 hectares of land, which is currently rank, species poor MG1 grassland, bordering an area of pioneer silver birch growing on bare colliery shale. Only 1.5 hectares of this land has been accepted by the applicant, which does not compensate for the loss of approximately 5 hectares on the development site.

Offsetting via The Environment Bank as an alternative proposal:

Insufficient detail of this alternative option has been provided by the applicant. The location is unknown beyond it being within the DDC district. The Offsite Habitat Compensation Strategy states that the alternative site is not guaranteed to be local to the development site and that because OMH needs to be created on previously developed land it would be difficult to directly replicate the habitat type. Instead, it would provide a habitat mosaic which offers a similar function to the associated wildlife. This proposal is unacceptable and fails to follow the principle of ecological equivalence in biodiversity offsetting. Habitats, especially priority habitat types, have to be replaced on a like for like or like for better basis. There has to be an exceptional ecological reason to do otherwise, for example removing secondary woodland from heathland. Since the substrate of the land is key, the only realistic prospect of creating OMH would be to find another colliery site, with a similar substrate to that of the development site. That was why I originally suggested the use of Betteshanger country park.

Turtle dove compensatory habitat:

The Offsite Habitat Compensation Strategy states '*development will result in the loss of habitat supporting one turtle dove territory*'. I disagree with this view. Although research has shown that turtle doves generally use foraging habitat within 300 metres

of their nesting sites, this is distance is not set in stone. My view is that the birds occupying the four territories within the development site are very likely to be using all of the areas of OMH for foraging, since they support a range of seed bearing plants commonly eaten by the species. The development will not only destroy most of the feeding grounds, it will also result in a substantial increase in disturbance and predation by domestic pets. It is highly unusual to find four turtle dove territories in one location. The development is highly likely to result in the abandonment of all of them.

Page 11 para. 4.1.3 states '*Turtle Dove has been recorded from the wider area of the country park*'. The applicant has not carried out surveys of this species within the country park or sought records from the BTO. Both of which would have been advisable if the intention is to use the country park as a compensation site. The proposed area of scrub planting for turtle dove appears to be within the same area that I put forward for attempted creation of OMH. A more sensible approach might have been to find out if and where turtle dove are currently breeding in the park and to locate compensatory habitat in the vicinity of areas used by the species, (provided that scrub planting or bare ground creation does not destroy existing important habitats such as OMH or species rich grassland). Consideration also needs to be given to making those areas inaccessible to the public.

Updated Ecological Appraisal with consideration of legally protected plant species:
There continues to be a considerable downplaying of the importance of the development site and a simplistic approach to site assessment and ecological valuation, by looking at individual habitat parcels rather than taking a whole site perspective. I refer to the following paragraphs:

- Page 17 para 4.2.2 Open mosaic habitat on previously developed land is still not listed as a priority habitat at the site.
- Page 19 section 4.6. OMH is still wrongly classified as sparse & recolonising vegetation and bare ground
- Page 25 para 4.6.21 it is conceded that the site supports OMH but it is still wrongly classified as of importance only at a local level. The development site should be classified as county level importance, if not higher. due to the unique botanical interest and presence of species such as (penny royal) and (grass poly), along with a suite of Kent rare plant register species.
- Page 23 para 4.6.11 *Lythrum hyssopifolia* is classified as only of county importance, despite there being only seven known locations within the country for this species and the last record in Kent was from 1968 at Betteshanger country park
- Page 32 Para 4.15.4. I sustain my concerns that attempting to translocate *Lythrum hyssopifolia* will not work. It is an endangered, legally protected species with very specialist habitat requirements. It's also an annual plant species, so if translocation fails and enough viable seed is not collected to try again, then you have effectively lost the population.

Biodiversity metric results:

I sustain my view that Aspect Ecology's results do not reflect an accurate condition assessment of either the OMH at the development site or the country park. I have examined the metric technical supplement and the criteria for a poor condition assessment of OMH within the development site are not met. My conclusion is supported by the findings of the Kent Wildlife Trust. Regardless of the difference in professional opinions, the headline metric results presented on page 17 of the Offsite Habitat Compensation Strategy, using their condition assessment rating, still gives a net biodiversity unit loss of 9.82%. I will take this figure as evidence that the proposals will not produce a biodiversity net gain.

In response to comments made in the ecology technical note, I understand that the site has undergone enabling works. However, the development platforms were levelled but they were never capped. This is the most important issue to consider since the substrate was not altered. In any case, I would not consider 10 to 15 years to be a recent timeframe. Brownfield sites can develop considerable value within this period of time. Para 4.3 refers *habitat creation or enhancement is feasible and can be achieved within relatively short timescales* in contradiction of their earlier point.

The previous lichen survey that they refer to was carried out 18 years ago in 2002, which is not a recent piece of work. It did record one nationally scarce Kent Red Data book species *Cladonia cariosa*. It's possible that the site has increased in species diversity since then and it is therefore an important part of the ecological baseline which has not been undertaken.

Compensatory habitat proposals:

In response to my objection to the area of Betteshanger country park which was proposed for compensatory habitat creation, I carried out a survey, to try to find a more appropriate area of the park. An area of approximately 7 hectares was found. Its current ecological value is far lower than the areas proposed. The proposal has been rejected based upon the refusal to sacrifice part of the park which is currently being used to draw income through a specific recreational use. *'The alternative compensation area proposed by DDCs Natural Environment Officer is not feasible due to existing activities which are important to the economic viability of the Country Park. However, the revised compensation proposal is comparable in terms of biodiversity gain that can be achieved'*.

The quadrat based survey of my proposed area of the park showed that the vegetation composition is entirely different to the areas proposed. It consisted of a mixture of species poor MG1 grassland and very young re-colonising silver birch growing on areas of exposed colliery shale. There were no protected species of flora noted, including lizard orchid. Having surveyed the whole of Betteshanger park, it was my conclusion that this presented the very best area to attempt compensatory habitat creation, without the loss of existing valuable habitats such as species rich grassland or the constraints imposed by the presence of Lizard orchid, which is legally protected under Schedule 8 of the Wildlife & Countryside Act 1981 (as amended).

I welcome the commitment to produce a detailed ecological management plan for the country park, which takes into consideration, in due course, the possible requirement to arrest succession within existing areas of open mosaic habitat on previously developed land. However, having looked at the areas of the park proposed I maintain my opinion that these areas do not currently require enhancement and that the creation of 5 metre squared scrapes would do more harm than good and would not really constitute a form of compensation for the loss of OMH at the development site. It would also present an unnecessary risk of destroying lizard orchids, since it will not be practical to avoid all individual plants or their underground tubers, by attempting to mark them all out in the summer months. Although there is scattered young scrub present, the areas are not currently being lost to scrub encroachment and comprise a valuable mixture of open mosaic habitat on previously developed land, scrub and species rich grassland. Areas of bare ground were also noted along with structural variation of vegetation, abundant resources for pollinators and a good botanical species diversity. I specifically carried out a quadrat based survey of area R2, since this is where it is proposed to create the largest scrapes. I do not recognise their description and they have not provided any botanical survey data for this specific area. My conclusion was that this area already supports OMH in a fairly good condition. There is some topographical variation evident by the presence of small mounds and

seasonally wet depressions, which are likely to already be important for specialist species such as grass poly. This area of the park also contains a good population of Lizard orchids.

Turtle doves:

I maintain my view that the planting of scrub on the country park is unnecessary since scrub is highly efficient at establishing itself. Since the outline management proposals advocate keeping scrub to a level of 10-15%, it would not make sense to plant more. It would not compensate for the loss of turtle dove breeding habitat on the development site since this species is very faithful to its territories. I maintain my view that woodland W4 and areas of dense scrub should be retained on the development site by redesigning/scaling down the proposal.

In summary therefore, I sustain my objection to the proposed development. My objection may be overcome if the proposal to attempt to create compensatory habitat within Betteshanger country park within the areas they have specified, in favour of the area I have put forward and supply metric calculations which reflect a more accurate condition of habitats within both development site and country park. There is a clear trade off involved between the desire to draw income from recreational use of the park and the desire to seek planning consent for the development. It may be possible to retain some of the army assault course (or scale it down), and still create sufficient compensatory habitat and I would like the applicant to give further consideration to this possibility.

DDC Tree Officer: The Tree Protection Plans shows removal of existing hedgerows throughout the site. This established planting affords significant character throughout and provides valuable habitat to a wide variety of species. There seems to be no obvious reason for this, especially as the majority are to be replaced in the same location as those being proposed for removal. On this basis, I object to this element of the proposal.

The Tree Protection Plan also shows the removal of G30. The land upon which it is growing is situated approximately five metres lower than the adjacent proposed properties so I cannot see an obvious conflict with this extensive area of established trees. Given the significant contribution they offer to the site, their retention is recommended. G29 is shown to be removed. This is a significant block of young woodland with high amenity value, offering the site valuable habitat and character and as such should be retained.

DDC Infrastructure: Policy CP 6 of the DDC LDF CS 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. Where developer contributions are sought, the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) require that requests must comply with three specific legal tests.

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 for indicative purposes only. On this basis 563.57 new residents will be generated by the proposed development. The following requirements are considered to meet the CIL Regulation 122 test in all respects.

Accessible green space: Applying the DM27 requirement of 2.22 ha per 1,000 population against the anticipated number of new residents generates an overall accessible green space requirement of 1.251ha. The indicative site layout shows Accessible Green Space is to be provided on site. The applicant has also stated they will be providing security of tenure through a long-term lease for a parcel of land immediately adjacent to the south of the Betteshanger Social Club to be used as functional open space. 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 requirements of DM27. Based upon the indicative layout this should be no less than 1.251 ha. Provision and long-term maintenance/management of the accessible green space should be secured within the legal agreement.

Outdoor sports facilities: Applying the DM27 requirement 1.17 ha of natural grass playing pitches per 1,000 population against the anticipated number of new residents generates an overall outdoor sports facility requirement of 0.66 ha. On site provision would be impractical on a site of this size. An appropriate off-site contribution is therefore 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 most up-to-date Sport England Facilities cost guidance advises a natural turf senior pitch is 0.7420 ha in size and has a capital cost of £100,000. The 0.66 ha natural grass playing pitch need generated by the proposed development equates to 94.2% of a natural turf senior pitch which equates to a proportionate offsite contribution of £94,196.96.

Improving pitch quality at the Betteshanger Social and Welfare Sports Club is an emerging priority from work currently being undertaken as part of the update to Dover's Playing Pitch strategy. Currently there is one adult football pitch overmarked on a cricket outfield. The cricket pitch is currently used by Betteshanger Colliery Welfare CC and overplayed by 12 matches per season. Improving the quality of pitches is a simple way of increasing capacity at a site; as such, priority should be to improve the quality of pitches that are currently overplayed.

The applicant is currently engaged with the Betteshanger Social Welfare Scheme Trustees and have stated they are committed to providing a financial contribution to the Betteshanger Social and Welfare Sports Club. A proportionate contribution, which would be £94,196.96 based upon the indicative housing mix for this scheme, improving pitch quality at the Betteshanger Social and Welfare Sports Club would be justified in this instance.

Children's Equipped Play Space: Applying the DM27 requirement of 0.06 ha per 1,000 population against the anticipated number of new residents generates an overall children's equipped play space requirement of 0.0338 ha. The indicative site layout shows Children's Equipped Play Space is to be provided on site. Provision and long-term maintenance/management of the Equipped Play should be provided onsite and secured within the legal agreement. The minimum amount required will be dependent on the final agreed mix of housing applying the 0.06 ha per 1,000 population requirements of DM27. Based upon the indicative layout this should be no less than 0.0338.

Thanet Coast and Sandwich Bay Special Protection Area Mitigation Strategy

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 an indicative £12,381.39 is therefore necessary for this site to be considered policy compliant.

Monitoring Fee: The introduction of revised 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. From this a proportionate monitoring fee of £236 per trigger event has been established. A monitoring fee of £236 per trigger event should be sought.

DDC Heritage: I understand how the development site sits within the landscape in relation to the CA and listed buildings and whether the site interacts with the church (which sits on the edge of the village and is exposed to open field systems to the west). Due to the undulations of the land and the heavy vegetation screening there will be no impact on these particular heritage assets: essentially it will not be seen nor can it be seen from the CA (of particular interest was the potential view from Church Lane). I would expect Historic England to come to the similar conclusion in respect of the registered park but KCC Heritage will be interested in the industrial archaeology.

DDC Head of Inward Investment and Tourism: I have been involved with the ambitions for the redevelopment of this site for many years; noting that the site has laid dormant for in excess of 20 years, I am therefore pleased to be able to support the proposals the subject of the current mixed-use application and hope that these will be realised.

By way of background, a positive, sustainable reuse of the former Kent Coalfield sites within Dover district, comprising Betteshanger, Snowdown and Tilmanstone Collieries, has been a long held ambition of the Council and other agencies for many years.

In the case of Betteshanger, the former Regeneration Agency, The South East England Development Agency (SEEDA) undertook to provide significant investment and create the major infrastructure to the site. This took the form of a major new roundabout on the A258 together with serviced access roads leading to both the former colliery spoil tip and the former colliery pithead complex site, sitting to the east and west of the A258 respectively. Substantial recreational facilities were to be provided on the colliery spoil tip and fully serviced development plots were laid out on the colliery pithead site to the west of the A258.

Despite positive marketing by SEEDA, little interest was forthcoming in respect of development opportunities at the colliery pithead site notwithstanding substantial prior infrastructure being put in place. SEEDA, however, was able to put in place temporary arrangements on the colliery spoil tip site which enabled a series of recreational activities to take place and start to mature over time.

Following an introduction through the inward investment channel to SEEDA (subsequently taken over by the Homes and Communities Agency) Hadlow College became the effective site owners some 12 years ago. During this time, major efforts have been concentrated on establishing the opportunities on the spoil tip – then branded as Betteshanger Sustainable Parks – based around recreation, history, heritage and environmental technology. A state of the art new visitor centre incorporating a mining museum was proposed and was scheduled to open during 2019. This ambition, along with any opportunities on the pithead complex was halted with the demise of the Hadlow Group going into educational administration in early 2019. Prior to the administration, it was evident that Betteshanger Sustainable Parks, through the marketing, operation and development of the activities had been able to make substantial progress which has seen ever increasing visitor numbers, with visitor numbers increasing year on year. Having developed a number of key foundations at

Betteshanger Sustainable Parks, it is therefore important that this momentum is maintained and that other supporting uses and activities should now come forward on the former pithead site.

Quinn Estates, having acquired the site has brought forward a comprehensive mixed-use proposal for the pithead site. The Design and Access Statement accompanying the application sets out the context for the development and the relationships to the surrounding area along with the country park on the site of the spoil tip which has recently reopened following the Covid-19 lockdown.

The Council's Corporate Plan for the period for 2020 through to 2024 sets out the Council's vision and priorities for the next four years. In particular, it provides a focus for all our activities and services and the direction of travel. The Corporate Plan identifies our ongoing commitment to the regeneration of the district, both physical and social, and also emphasises the importance of the tourism in realising the opportunities for our district and economy.

The Corporate Objectives include:

1. Regeneration - Tourism & Inward Investment: Providing a clear vision and direction of place-shaping for the district, creating a vibrant destination with good transport links, making tourism everyone's business. Supporting the business community to enable a thriving local economy that provides the jobs, services, training and career opportunities that we need.

2. Housing & Community: Enable a range of good quality affordable homes for our residents in an attractive environment, and work to build healthy, resilient and sustainable communities, where residents have good access to facilities and transport links to further their wellbeing.

In conclusion, there is an enduring recognition of the need to see progress at Betteshanger and realise the previously made investment in the site. Quinn Estates has a proven track record of delivery across Dover district and the wider county. I therefore hope that considerable weight is given to the benefit that a further development of the nature mixed-use proposed will bring to the locality going forward.

DDC Environmental Health: We have no objection to the application, but recommend that appropriate conditions are applied to any planning permission, these include: Sound insulation measures for dwellings and four stages of remediation conditions.

Noise: The Entran Betteshanger Grove Environmental Noise Assessment Version 1 has been reviewed and its preliminary recommendations for mitigating noise noted.

Land Contamination: It was noted that Geo-environmental Reports are at a preliminary stage with recommendations for further intrusive and exploratory works, and sufficient data has been obtained through limited sampling at this stage to feed the Outline Remediation Strategy. The further works recommended are clearly detailed in the Ecologia Report, comprising the following six key areas:

- Additional intrusive SI works
- 6 rounds of gas monitoring (to inform requirements for gas protection measures)
- 3 rounds groundwater monitoring
- Probing investigation to determine extent of potentially abandoned adits
- Completion of Coal Mining Risk Assessment

- Completion of Minerals Assessment

The limited gas and groundwater monitoring to date has displayed evidence of elevated CO₂ levels and hydrocarbons/heavy metals respectively.

The Outline Remediation Strategy is a sensible rudimentary approach based on data obtained to date, with scope to be refined based on further investigative works and prior to any constructions works. The Outline Remediation Strategy's key suggestions are the use of clean cover systems, further gas and groundwater monitoring, provision of a Materials Management Plan a submission of a Verification Report, prior to occupation. We are satisfied that all key areas of concern have been addressed or provision has been made to address at some future point. The Environment Agency will need to provide comment in terms of the protection of controlled waters due to the primary and secondary aquifers beneath the site.

Air Quality/EVCP

The Air Quality Assessment submitted examines the impact of the development both for the construction and operational phases using relevant criteria published by EPUK and IAQM and also considers guidance published by Kent & Medway AQ Partnership. The use of Defra background levels for both NO₂ and particulates is used and modelling predictions calculated for operational year 2025. Model verification using DDC diffusion tube data is accepted.

For the operational phase of the development the results of the modelling assessment indicate that predicted annual mean NO₂, PM₁₀ and PM_{2.5} concentrations are well below (less than 75%) of the AQAL at the selected receptor locations both with and without the proposed development. These conclusions are accepted and no further consideration of impact on local air quality levels is necessary.

An Emissions Mitigation Assessment is presented, including an emissions mitigation calculation in accordance with the advice in the Kent and Medway Air Quality Planning Guidance. In respect of additional vehicle movements as a result of the development the Emissions Mitigation Calculation (presented DEFRA Emissions Factor Toolkit suggests a damage cost of £163,928.34. However, the following mitigation measures will be included within the proposed development:

- PV and associated low carbon technology.
- 1 Electric Vehicle charging point per dwelling with dedicated parking, or 1 charging point per 10 spaces (unallocated parking); and
- Travel Plan including mechanisms for discouraging high emission vehicle use and encouraging the uptake of low emission fuels and technologies.

The cost of implementing the above mitigation measures will exceed the Damage Cost figure by a significant margin. The implementation of the above mitigation measures should further reduce the impact of emissions during operation of the Proposed Development. In view of the above we would recommend these proposed measures are secured by way of condition, particularly in respect of the provision of ELV charging points.

For the construction phase of the development, the impact of dust deposition is examined and a range of mitigation measures identified and proposed. We would therefore recommend that a condition requiring a site specific Construction Management Plan is included that includes the mitigation measures identified. Provided this is implemented the EP have no further observations in terms of air quality impact of this development.

It is further noted that the report also examines nitrogen deposition on nearby sites and concludes that traffic generated by the proposed development is predicted to have an insignificant impact on N-deposition rates and airborne NOx concentrations within the Ramsar Site and SSSI. Whilst this is a matter for the Council's Ecology officer to consider, the deposition rates are compared to data presented on the APIS website which gives the current N-deposition rate within the SSSI of 16.2 kgN/ha/yr. The conclusion that there is insignificant impact on ecological sites appears to be robust.

DDC Housing Manager: There is a need and a demand for affordable housing of all sizes and tenures across the district. This application is proposing 63 units of affordable housing, which is in line with policy requirements, and we would request that the tenure split adopted is 44 properties for affordable rent and 19 for shared ownership. The mix proposed includes 1 and 2 bed flats, 3 and 3 bed houses. This mix would be supported as it meets the identified housing needs in the district. It is recommended that the shared ownership properties are predominantly 2 bedroom homes - ideally 2 bedroom houses with some 2 bedroom flats. Recent market behaviour indicates that these are the most popular sizes for shared ownership, with larger units presenting issues of affordability.

The inclusion of self-build plots is strongly welcomed. The self-build plots should be made available to people registered on the Dover DC Self-build register, and the size of the plots should be suitable for the requirements of registered people. This will require innovation from the developer to provide serviced plots which can facilitate semi-detached or terraced properties where applicants require this.

DDC Waste Services: Any future resident will want to have their waste and recycling collected. DDC operates an alternating fortnightly refuse and recycling collection. Each proposed property must be able to accommodate at least a standard bin set. A standard bin set for a family of 1 to 5 residents comprises a 180 litre refuse bin, 240 litre recycling bin, black box for paper / card and kerbside food caddy. If a household has 6 or more family members the property needs to be able to accommodate another 180 litre refuse bin which the household will be entitled to have. The developer needs to be made aware that it is DDC policy to charge for wheelie bin sets and that all bin sets must be purchased before future residents move in. A wheelie bin set will not be provided free of charge for any property.

The developer needs to ensure that a 26 ton collection freighter can access the site and reach all properties. Future residents will be required to present their bins at the property boundary so that the collection freighter can pass by to empty the bins. The developer needs to incorporate an area for bin storage for each property into their plans and preferably at the front of each building. The developer needs to ensure that the collection freighter can access all parts of the development. These need to be wide enough for collection freighter access and clear of parked cars as this will stop collections being made. The developments road surface must be able to take the weight of the (up to) 26 ton collection freighter.

Each of the business units will need to have a separate trade waste collection as DDC only has a licence to collect residential waste. The developer should provide a storage area for each business to allow the storage and collection of trade waste.

KCC Highways: The residual peak hour traffic generation as a result of the proposals is approximately 94 two-way vehicle trips, with a distribution at the site accesses of 27(am)/24(pm) trips to/from the north via the A258, 25(am)/41(pm) trips to/from the A256 to the west via the link between the site and Broad Lane, and 42(am)/28(pm)

trips to/from the south via the A258. The assessment of the A258 route to/from the north shows that there is unlikely to be a severe impact as a result of the development.

The distribution on the routes to/from the west is such that trips to the A256 will be via Straight Mile and trips from the A256 will be via Northbourne Road and it is recognised there are limited sections of these two roads which currently require drivers to utilise passing places in order to proceed. However, the traffic flows on these roads are tidal, with the greater flows in both peak hours being eastwards from the A256 in Northbourne Road and westwards to the A256 in Straight Mile. Bearing in mind the number of likely eastbound development trips in Northbourne Road and westbound development trips in Straight Mile, the fact that these trips will be in the same direction as the greater tidal flows, and the limited sections of these routes which require the utilisation of passing places, the likelihood of there being significant increased conflict between opposing flows is low. There is also only 1 recorded personal injury crash on each of these routes in the five years to the end of 2019. Taking all of this into account the impact on these routes is on balance not considered to be severe. On the route to the south via the A258, the development adds only 9 turning movements (6 in and 3 out) at the A258 London Road/Mongeham Road junction. It is acknowledged that there is an existing section of Mongeham Road on the approach to London Road where the carriageway is of insufficient width for two vehicles to pass, and this can occasionally cause traffic to queue back into London Road when drivers having turned in from London Road then have to give way. The applicant has therefore proposed some works to improve the existing situation by formalising the existing informal give way arrangements, but for drivers heading towards London Road rather than those having turned in from London Road, which should prevent vehicles queuing back onto the A258. The scheme currently proposed will require a safety audit and need to complete a detailed design and approval process through the highway authority, however these requirements can be secured by condition.

With regard to the A258 London Road/Manor Road roundabout junction, base modelling data is available through the work done for the draft Local Plan. This provides a forecast of the likely existing situation at the end of the Local Plan period in 2040 with committed development and traffic growth taken into account. The proposed development trips have been added to this scenario in order to assess their impact. The assessment shows that the average delay time for vehicles passing through the junction is likely to increase by 2-3 seconds as a result of the proposed development, which is not considered to be severe.

Access to the site will be via existing access points, with the main access being from the A258 Sandwich Road roundabout and secondary access from Broad Lane. These have both been assessed and there is unlikely to be a severe impact at these junctions as a result of the development.

The indicative Masterplan submitted also indicates pedestrian access to/from Circular Road providing a connection to the existing bus stops, the detail of which can be resolved through reserved matters. The proposals also include improvements to public transport access through the provision of two new bus stops on the A258 Sandwich Road near the existing roundabout, which have been agreed with the bus operator. These proposals have been subject to an independent safety audit and will be completed by the developer through a s.278 agreement. It has also been agreed to 'future proof' the potential diversion of bus services through the site by providing stops within the site, and this will be further considered and detailed through reserved matters.

There is an existing footway/cycleway along Betteshanger Road within the site, providing a connection to the existing pedestrian/cycle route in Sandwich Road which then provides a route to/from Deal and the Betteshanger Park opposite the site. Access to the site by bus, cycle and on foot is therefore acceptable.

The framework Travel Plan is noted and I would advise that monitoring of the same is not required by the highway authority bearing in mind the net reduction in vehicle trips as a result of the proposals and the provision of new bus stops. A detailed Travel Plan promoting and encouraging sustainable travel can be secured by condition, however the applicant may wish to consider funding discounts for bus travel and cycle purchase rather than funding monitoring of the plan.

The internal layout of the site and associated parking is not for consideration now and will be dealt with through reserved matters. Construction management, including routing and timing of HGV movements, can be dealt with by condition.

Taking all of the above into account the proposals are unlikely to have a severe impact that would warrant a recommendation for refusal on highway grounds. The following should be secured by conditions: CMP, standard highway, parking and access conditions, cycle parking, travel plan, EVC parking (10%) and completion of the A258 Sandwich Road bus stops and associated works shown on the submitted plans or amended as agreed, prior to the use commencing.

KCC East Kent PROW: Public Footpaths EE367 and EE368 would be directly affected by the proposed development. The existence of the Public Right of Way (PROW) is a material consideration. KCC PROW and Access Service are keen to ensure that their interests are represented with respect to our statutory duty to protect and improve PROW in the County. The team is committed to achieve the aims contained within the KCC Rights of Way Improvement Plan (ROWIP). This aims to provide a high-quality PROW network, which will support the Kent economy, provide sustainable travel choices, encourage active lifestyles and contribute to making Kent a great place to live, work and visit.

KCC PROW would have no objection to the proposal subject to the following condition should planning permission be granted:

A full PROW management scheme is agreed to approve enhancements and improvements to path alignment, surfacing, widths and signage.

Details of PROW management during construction if any temporary closures or diversions are required, as well as on and off-site funding should be included.

Delivery of this agreed scheme at reserved matters stage / before permission is granted

Reason: Overall PROW are well represented and referenced in the multiple documents accompanying this application and KCC PROW support the intentions to achieve a high-quality, landscape-led sustainable development.

However, whilst the PROW network is included and the intention is to “retain existing” PROW we request that details of improvements and enhancements are provided as above in order to avoid complications at a later, less flexible stage in the planning process.

Impacts on Public Footpath EE367: EE367 runs from Northbourne to the south adjacent to and through the site, north to Finglesham. It would appear that the route runs adjacent to the boundary, we request details of how the boundary vegetation will

affect the route where it currently runs as a field path. As the path approaches the development, we would request surface improvement to make the transition of surface as EE367 continues through the Community Park. At this point there would appear to be several road crossings of which we require details, and which must give pedestrian priority. EE367 then runs along the secondary access route, accesses and crosses Broad Lane to its continuation on to Finglesham. The Public Footpath must remain in a safe, wide open corridor; pedestrian access is important to the development for both new and existing residents and future employees and the existing network provides active travel opportunities for all. All details should be provided as part of the above scheme.

There must be clear signage throughout this area of the site and at entry and exit points to allow for ease and safety of user movement. The definitive route of EE367 must remain correct or a diversion under the Town and Country Planning Act will need to be applied for. Again, we would request that the applicant engages with KCC PROW at the earliest opportunity to confirm this as a matter of importance. All signage, widths and surfaces must be approved by KCC.

The applicant has not addressed the junction of EE367 and EE366A that provides an important link to the wider PROW network and the White Cliffs Trail; KCC PROW would seek funding from the developer to improve this route and take the “opportunity to enhance the Footpath Network” and “contribute positively to the local landscape”.

Impact on Public Footpath EE368: EE368 runs from its junction with EE367 on the secondary approach road, across field and then through the development again in the character area of Wetland Features. Details of surfacing, widths and signage improvements for this section should be included in the requested PROW scheme. We would also request details of entry and exit points of the development and how these are to be incorporated in light of permeability and all user safety. EE368 then runs cross field south east to Sandwich Road.

Impact on Public Footpath EE369: EE369 is not directly affected by the development, as it runs parallel to the south-east boundary. KCC PROW welcome the inclusion of the route when considering air quality, noise impact and visual assessment as all steps must be taken to mitigate any adverse effect on the users experience of the route. This applies to the construction phase as well as on completion.

Impact on wider PROW network: KCC policy is to meet future demand by providing well planned new provisions, including green infrastructure to facilitate sustainable travel patterns. The PROW network provides an important element of this infrastructure and to this end, we examine all applications with regard to the wider area. This development is situated in an area of a significant number of PROW which includes historic and promoted routes in an area of revitalised economic and growing tourism/leisure use. The White Cliffs Trail, The Miners Way Trail are part of the White Cliffs Country which is of significant benefit to Kent and the PROW network plays an increasingly major part in supporting the benefits to health and economy of the region. The opportunity to enhance the network must be taken positively, hence our inclusion of improvements to EE366A and the wider sections of EE367 and EE368.

Transport Assessment / Travel Plan: The PROW network including these proposed improvements actively promote sustainable travel across the development and wider area. These improvements will benefit the development of Betteshanger as a whole. KCC PROW would request that the promotion and communication (welcome travel packs, Travel Plan website, newsletter) includes information regarding the opportunities provided by the PROW network for sustainable travel as well as exercise,

leisure and open-air recreation for all community user groups. Engagement with KCC PROW can only advance the developer's "ongoing commitment to the occupants of the development and of the local area to support and encourage sustainable modes of transport within the surrounding area". PROW and Access Service will ensure sufficient information and resources are supplied to the Travel Plan Co-ordinator to maintain good sustainable transport connections and a walking and cycling infrastructure.

KCC PROW welcome paragraph 4.13; particularly the applicants acknowledgement "that the proposed development site has the opportunity to complement and further strengthen the PROW network surrounding the site" and look forward to this being realised. We await the early engagement with the applicant regarding the preparation of the PROW Management Scheme and inclusion of PROW in the Travel Plan measures.

KCC LLFA: The illustrative masterplan layout includes open surface water features within the open spaces which provide the required attenuation for management of surface water runoff from the site for the estimated impermeable areas. It is important that any attenuation or detention features are not located within areas of flood risk or surface water overland flow paths.

The current surface water strategy proposes that surface water will be managed within 7 catchment areas through a series of swales, filter strips and detention basins with infiltration where possible prior to discharge into North Stream to the north east of the site. We appreciate that these are integrated into open spaces. The information submitted to support the outline component of the planning application has demonstrated how surface water may be managed within an indicative layout. Given the high-level strategy presented:

- We agree that the approach as outlined within the FRA with attenuation of surface water to QBAR is appropriate and demonstrates that surface water can be accommodated within the proposed development area.
- We would refer the applicant to information within KCC's Drainage and Planning Policy Statement which describes policy in relation to drainage operational requirements and consideration of other matters in relation to layout and design.
- The use of infiltration should be maximised insofar as is possible to reduce the volume of discharge of surface water off-site. It is essential that ground investigations and infiltration tests are undertaken as part of developing a sustainable drainage strategy for the site.
- We note permeable paving is proposed and would recommend that other underground services, such as foul sewers, are routed outside of areas of permeable paving or cross it in dedicated service corridors, particularly where sewers will be offered for adoption.
- At the detailed design stage, we would expect to see the drainage system modelled using FeH rainfall data in any appropriate modelling or simulation software as per the requirements of our latest drainage and planning policy statement (June 2019).

Additional comments

- Land drainage consent may also be required for any works within the watercourse in the southern area of the site. Consent will be required from KCC.

- It would be beneficial if a condition survey of the existing watercourses is undertaken to identify any constraints, maintenance needs and confirm connectivity.
- Landscape details for the detention basins will need to be provided with finalisation of the surface water management strategy to ensure that the basins provide the stated volume, have a suitable maintenance regime and will be sustainable as landscaped features.
- The ability of a system of this type to continue to operate into the future is dependent upon the maintenance being undertaken. We would recommend that maintenance information is requested when greater detail of the system is known. We strongly recommend the utilisation of a verification report condition to ensure the system is delivered as approved but which can also provide greater detail on maintenance specifications.

We recommend inclusion of the conditions relating to the submission of a sustainable surface water scheme, verification that these works have been undertaken and no other forms of infiltration to be approved.

KCC Archaeological Unit: The application is accompanied by a combined Archaeological Desk-Based Assessment and Built Heritage Assessment. Whilst the desk-based assessment provides some useful information, I do not agree with all of the conclusions reached.

Archaeological background: The site lies within a landscape that is generally rich in archaeological remains and there is good evidence for activity from the Prehistoric period onwards in the immediate vicinity of the proposed development site. Immediately to the south of the site there is a group of at least 8 ring-ditches that are visible as crop- and/or soil- marks on aerial photographs. These almost certainly represent infilled ditches that would have originally encircled a central barrow mound of probable Prehistoric (probably Late Neolithic or Early Bronze Age). The crop-mark of one such curving ditch – possibly related to a barrow or perhaps a small enclosure – would appear to have originally extended into the proposed application site. Numerous other barrows, trackways and enclosures potentially of Prehistoric date are recorded in the wider area.

There is also good evidence for Iron Age and Romano-British activity in the vicinity of the proposed development site. This includes a scheduled monument located around 430m to the west thought to represent enclosures for an Iron Age or Romano-British farmstead. There is further evidence for Iron Age occupation some 370m to the north, whilst Romano-British burials have been found immediately outside the proposed development site.

The applicant's desk-based assessment notes that it is unclear to what extent the construction of the colliery buildings and associated infrastructure would have impacted pre-colliery archaeological remains. It is possible that in some areas the former colliery's construction would have had a severe impact on below ground archaeology, but in other areas archaeological remains may have survived unaffected. Contrary to the applicant's desk-based assessment I note that buried remains of the colliery itself might be of industrial archaeological interest. Previous archaeological investigations at the colliery have, for example, revealed evidence for "sinkers' huts".

Recommendations: Given the archaeological potential outlined above I suggest that it is possible that the site's redevelopment could impact remains of archaeological interest. The applicant's archaeological desk-based assessment recommends

archaeological mitigation works in the form of an archaeological watching brief maintained during groundworks. Instead I would suggest that a staged and targeted approach would be more appropriate, whereby a combination pre-existing and acquired data could be used to better understand and model the likely survival of archaeological remains across the colliery site, including both pre-colliery and industrial archaeological remains in order to target appropriate mitigation works. Such mitigation works might include archaeological watching brief(s), but could also include open-area investigation, detailed excavation or indeed no further work. I therefore recommend that provision is made in any forthcoming planning consent for a programme of archaeological work.

KCC Economic Development: KCC has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution. The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) require that requests for development contributions of various kinds must comply with three specific legal tests. These tests have been duly applied and give rise to the following specific requirements.

Request Summary

Primary Education: £4,642 per flat, £1,160.50 per house, total £747,362 Contribution to be directed at a schools within the Sandwich/Deal Planning Areas.

Secondary Education: £4,540 per flat, £1135 per house, total £730,940
Towards expansion at Goodwin Academy 'Applicable' excludes 1 bed units of less than 56 sqm GIA.

Community Learning: £16.42 per unit, total £3,448.20
Towards additional resources including IT equipment for the new Learners at Deal Adult Education Centre

Youth Service: £65.50 per unit, total £13,755
Towards additional resources for Deal Youth Service to mitigate the impact of the new attendees

Library Bookstock: £55.45 per unit, total £11,644.50
Towards additional services and stock at Deal Library to mitigate the impact of the new borrowers from this development

Social Care: £146.88 per unit, total £30,844.80
Towards specialist care accommodation within Dover District.
All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)

Broadband Condition suggested in line with the Governments compete to broadband facilities.

Primary Education: The proposal gives rise to up to 45 additional primary school pupils during occupation of the development. This need, cumulatively with other new developments in the vicinity of the Sandwich/Deal Planning Areas, can only be met through the enlargement of local schools or a new Primary school.

This proposal has been assessed in accordance with the KCC Development Contributions Guide methodology of 'first come, first served' assessment; having regard to the indigenous pupils, overlain by the pupil generation impact of this and other new residential developments in the locality. The County Council requires a financial contribution towards construction of the new Primary school of £4,642 for each 'applicable' house and £1,160.50 per applicable flat. 'Applicable' means: all dwellings except 1 bed of less than 56sqm GIA.

This process will be kept under review and may be subject to change (including possible locational change) as the LEA has to ensure provision of sufficient pupil spaces at an appropriate time and location to meet its statutory obligation under the Education Act 1996 and as the Strategic Commissioner of Education provision in the County under the Education Act 2011. KCC will commission additional pupil places required to mitigate the forecast impact of new residential development on local education infrastructure generally in accordance with its Commissioning Plan for Education Provision 2020-24 and Children, Young People and Education Vision and Priorities for Improvement 2018-2021.

Secondary School Provision: A contribution is sought based upon the additional need required, where the forecast secondary pupil product from new developments in the locality results in the maximum capacity of local secondary schools being exceeded. The proposal is projected to give rise up to 32 additional secondary school pupils from the date of occupation of this development. This need can only be met through the provision of new accommodation at Goodwin Academy.

The new secondary school accommodation will be provided at Goodwin Academy and delivered in accordance with the Local Planning Authority's Infrastructure Delivery Plan; timetable and phasing. This process will be kept under review and may be subject to change as the LEA will need to ensure provision of the additional pupil spaces within the appropriate time and at an appropriate location.

Community Learning: There is an assessed shortfall in provision for this service: the current adult participation in both District Centres and Outreach facilities is in excess of current service capacity. To accommodate the increased demand on KCC Adult Education service, the County Council requests £16.42 per dwelling towards the cost of providing additional resources including IT equipment for the new Learners at Deal Adult Education Centre.

Libraries: KCC are the statutory library authority. The library authority's statutory duty in the Public Libraries and Museums Act 1964 is to provide 'a comprehensive and efficient service'. Borrower numbers are in excess of capacity and bookstock in Deal at 919 items per 1000 population is below the County average of 1134 and both England and total UK figures. To mitigate the impact of this development, KCC will need to provide additional services and stock at Deal Library to mitigate the impact of the new borrowers generated from this development, and the additional resources will be provided at Deal Library as and when the monies are received. KCC therefore requests £55.45 per household to address the direct impact of this development and cost of additional resources.

Youth Service: To accommodate the increased demand on KCC services the Council requests £65.50 per dwelling towards additional resources for Deal Youth Service to mitigate the impact of the new attendees.

Social Care: The proposed development will result in additional demand upon Social Care (SC) (older people, and also adults with Learning or Physical Disabilities)

services, however all available care capacity is fully allocated already, and there is no spare capacity to meet additional demand arising from this and other new developments which SC are under a statutory obligation to meet. In addition, the SC budgets are fully allocated, therefore no spare funding is available to address additional capital costs for clients generated from new developments.

To mitigate the impact of this development, KCC SC requires:

- A proportionate monetary contribution of £146.88 per household towards specialist care accommodation locally in the Borough
- The Ministry of Housing, Communities and Local Government identified in June 2019 guidance Housing for older and disabled people the need to provide housing for older & disabled people is critical. Accessible and adaptable housing enables people to live more independently and safely. Accessible and adaptable housing provides safe and convenient homes with suitable circulation space and suitable bathroom and kitchens. KCC request these dwellings are built to Building Reg Part M4(2) standard to ensure they remain accessible throughout the lifetime of the occupants to meet any changes in the occupant's requirements.

KCC Minerals and Waste: Thank you for the mineral assessment of the safeguarded land-won mineral (Brickearth (Other Areas) – Ashford, Canterbury, Dover, Shepway) that is coincident with the above proposal.

The Mineral Assessment (MA) address the matter by examining if any of the exemptions from the presumption to safeguard (as set out in Policy CSM 5: Land-won Mineral Safeguarding) can be invoked. These being criteria 1-7 of Policy DM 7: Safeguarding Mineral Resources. Though only one criterion need be successfully met to invoke an exemption from mineral safeguarding.

The most compelling argument is that which is advanced to meet criterion 1 of the policy; given that the material is a inherently marginal type of brickearth, and brickmaking activity in the locality is historic.

In the DDC area deposits of the material are found on Chalk dip slopes both as isolated deposits and as 'spreads' often closely associated with the Sub-Alluvial River Terrace deposits in this area. There are no records of recent extraction of this mineral for modern brick making. It may have occurred in the past as isolated and temporary localised extraction and kilning for use in close proximity to the point of production. It would appear that the material is currently economically marginal or that any economic status is now historic and unrelated to present day industrial minerals requirements. However, this does not mean that their use in historic restoration will not be needed at some juncture, or that the brickearth using brick manufacturing industry may not consider their use with the depletion of 'Stock Brick' brickearth supplies in other areas of Kent, and for that reason are considered important to be safeguarded at this time.

Therefore, the relatively limited overall size of the site together with an absence of a brick making industry that is actively using this material strongly suggests that this mineral deposit is not of economic importance at this time. Therefore, it is considered that exemption 1 of Policy DM 7 can be invoked. This does not mean that the entire occurrence of this mineral in the District area is 'uneconomic' and each case has to be considered on its merits. It may be the case that a brick making industry may return to the area at some juncture in the future.

Kent Fire and Rescue: Confirm that the off-site access requirements of the Fire & Rescue Service have been met.

Kent Police: We have reviewed this outline application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the NPPF. We request a detailed discussion with the applicants.

Secured by Design (SBD) is the UK Police flagship initiative addressing designing out crime and security. The Gold award incorporates the security of the external environment together with the physical security specification of the home. Silver offers those involved in new developments, major refurbishment and the individual the opportunity to gain an award for the level of physical security provided. SBD have design guides for Housing “Homes 2019” suited to developments such as this and also for Self Build. There is a carbon cost for crime and incorporating SBD policy would provide an ideal opportunity for it to be addressed.

We have some concerns that should be addressed if this application proceeds, they include:

1. The development layout and permeability are a concern if they allow too many routes so that criminality and ASB can thrive as the natural surveillance is diluted.
2. The wildlife buffers, nature areas, green spaces and similar require protection to ensure that they do not attract anti-social behaviour e.g. bike, small vehicle or motorbikes.
3. A need to incorporate the latest designing out crime and crime prevention measures prior to the full planning application submission and based upon SBD and CPTED:

Access and Movement: Places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security;

Structure: Places that are structured so that different uses do not cause conflict;

Surveillance: Places where all publicly accessible spaces are overlooked;

Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community;

Physical Security: Places that include necessary, well-designed security features;

Activity: Places where the level of human activity is appropriate to the location and creates a sense of security at all times;

Management and Maintenance: Places that are designed with management and maintenance in mind, to discourage crime in the present and future.

We welcome a detailed discussion with the applicant/agent about site specific designing out crime.

Kent and Medway NHS CCG: has delegated co-commissioning responsibility for general practice services in Kent and reviews planning applications to assess the direct impact on general practice. The CCG has assessed the implications of this proposal on delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution. In line with the Planning Act 2008 requests for development contributions must comply with the three specific legal tests. We have applied these tests and can confirm the following requirements.

	Total Chargeable units	Total	Project
General Practice	210	£181,440	Towards refurbishment, reconfiguration, improvements and/or extension of primary care facilities within the Deal and Sandwich Primary Care Network.

This proposal will generate approximately 504 new patient registrations when using an average occupancy of 2.4 people per dwelling. The proposed development falls within the current practice boundary of a number of practices within the Deal and Sandwich Primary Care Network.

There is currently limited capacity within existing general practice premises to accommodate growth in this area. The need from this development, along with other new developments, will therefore need to be met through the creation of additional capacity in general practice premises. Whilst it is not possible at this time to set out a specific premises project for this contribution at this point in time we can confirm that based on the current practice boundaries we would expect the contribution to be utilised as set out above. Any premises plans will include the pooling of S106 contributions where appropriate. General practice premises plans are kept under regular review as part of the GP Estates Strategy and priorities are subject to change as the CCG must ensure appropriate general medical service capacity is available as part of our commissioning responsibilities.

Planning for growth in general practice is complex; physical infrastructure is one element but alongside this workforce is a critical consideration both in terms of new workforce requirements and retirements. Any plans developed need to support delivery of sustainable services for the future. The CCG is of the view that the above complies with the CIL regulations and is necessary in order to mitigate the impacts of the proposal on the provision of general practice services.

Natural England: no objection - subject to appropriate mitigation being secured.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Thanet Coast and Sandwich Bay Ramsar site
- damage or destroy the interest features for which the Sandwich Bay to Hacklinge Marshes Site of Special Scientific Interest (SSSI) has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- The implementation of a suitable surface water management strategy, for the operational phase of development, which has been considered through a Habitat Regulations Assessment (HRA) Appropriate Assessment (AA)

We advise that the delivery of agreed mitigation measures, which have been considered at HRA. AA should be secured by an appropriate obligation.

Further advice on mitigation: The proposed development is adjacent to the Thanet Coast and Sandwich Bay Ramsar site this site is an internationally important wetland site designated predominantly for its wetland features such as: birds, invertebrates and vegetation including nearby grazing marsh habitats, with an extensive network of both brackish and freshwater ditches. The interest features of this site rely on a high quality of water and stable water levels; as such development proposals must demonstrate how negative impacts to water quality and water levels are avoided and/or minimised.

As this development will result in a net gain of hard standing surfaces there is the risk of increased, potentially contaminated, surface water run-off into the designated site, to appropriately mitigate this potential impact the development should implement an

appropriate surface water management strategy such as that proposed within the provided Flood Risk Assessment document.

While the proposed surface water management strategy appears ecologically robust we advise that all mitigation measures required will need be considered by the Council, as the competent authority, via an appropriate assessment to ensure there is no adverse effect on the integrity of the site(s) in accordance with The Conservation of Habitats & Species Regulations 2017 (as amended).

Air quality impacts: Interest features for which the Thanet Coast and Sandwich Bay Ramsar site is designated for are sensitive to significant changes in air quality. The provided Air Quality Assessment reaches the conclusion that air quality impacts of traffic will have an insignificant impact on these sites. Natural England would concur that there is no likely significant effect resulting from the air quality impacts of traffic generation.

The proposed amendments to the original application are unlikely to have significantly different impacts on designated sites or protected landscapes than the original proposal. The proposed amendments appear to relate to impacts on protected species, local sites and priority habitats and species.

Protected Species Natural England has produced [standing advice](#) to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Local sites and priority habitats and species You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust or recording societies. Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land.

Historic England: On the basis of the information available to date, we do not wish to offer any comments.

The Environment Agency: The proposed development will be acceptable if planning conditions are included. The previous use of the site as a Colliery presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a principal and a Secondary aquifers.

The application's Phase 1 and 2 Preliminary Geo-Environmental Assessment and Outline Remediation Strategy demonstrate that it will be possible to manage the risks posed to controlled waters by this development. We believe that it would place an

unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the NPPF. Without these conditions we would object to the proposal in line with paragraph 170 because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution. Suggested conditions include site remediation, verification and monitoring plans, ground contamination safeguarding and no other infiltration than as approved.

The Coal Authority: We have reviewed the Coal Mining Risk Assessment (RSK, November 2020) submitted by the applicant.

The report correctly identifies the presence of two recorded mine entries within the central area of the application site and that they have historically been treated. The report states that no-build zones will need to be calculated around the mine entries in order to inform the site layout. The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have been capped, in line with our adopted policies. The Coal Authority expects that the presence of these mine entries, and their calculated no-build zones, should inform the site layout. Built development should not be proposed above mine entries or within their zone of influence. The applicant should be advised that they need to calculate an appropriate zone of influence (no-build zone) for the mine entries, which will require consideration of site specific ground condition data, such as depth to rock head, in order that this can be used to inform this calculation.

We would also expect detailed consideration to be given to the treatment works already carried out to stabilise the mine entries and their current condition and an assessment made of the appropriateness of the treatment works for the development now proposed. In order to inform this assessment it may also be necessary to undertake intrusive site investigations to determine the condition of the current treatment to the mine entries and to inform any further remedial works necessary to ensure the safety and stability of the development.

The Coal Authority will expect at the time of the submission of reserved matters relating to the detailed development layout that a plan will be provided with the exact location of the mine entries and their associated no-build zones identified. This plan should demonstrate adequate separation between the proposed built development and mine entries present. Appropriate remedial and mitigation measures should also be proposed where identified as necessary to ensure the safety and stability of the development as a whole. Consideration should be afforded to the significant intensification of use at the application site associated with the proposed development and appropriate recommendations should be made in respect of any mitigation measures, should these be deemed necessary, to ensure that no risks arise to public safety from the mining legacy features present.

Please note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property.

The report also recommends that further intrusive site investigations should be undertaken in relation to a possible third unrecorded mine entry on the site. This possible feature is not recorded within the Coal Authority's data, the report authors

consider this may be because the feature was not sunk for the purposes of coal mining. As you may be aware the Coal Authority is a statutory consultee for issues of land instability related to coal mining legacy. We expect that the LPA will secure the recommendations of the report for further investigation of this feature. The applicant should be advised that a watching brief for all excavations, especially those for foundations and stripping operations, should be followed as a suitable precautionary measure and the site workforce, should be made aware that unrecorded mine entries could affect the site. If any unexpected ground conditions are found then the Coal Authority should be contacted immediately.

Recommendation: the Coal Authority recommends the imposition of the following conditions:

1. As part of the reserved matters submission for the layout, a plan shall be submitted to the LPA which identifies the location of the mine entries, their calculated no build zones and their relationship to the built development proposed. This plan shall be setting out the information used to inform the layout, including the findings of intrusive site investigations and details of the mine entry treatment works and recommendations for any further remedial works and/or mitigation measures.

2. No development shall commence, on that area of the site where the coal mine entries are present, until any remediation works and/or mitigation measures to address land instability arising from these features, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

3. Prior to the part of the site where the coal mine entries are present being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

The Coal Authority therefore has no objection to the proposed development subject to the imposition of the conditions to secure the above.

The following statement provides the justification why the Coal Authority considers that a pre-commencement condition is required in this instance:

The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

River Stour Internal Drainage Board: Whilst the majority of the site is outside of the River Stour (Kent) IDB's district, the lower (eastern) end of the site is within it and the whole of the site drains to it. The proposal therefore has the potential to affect IDB interests; downstream drainage and flood risk in particular.

The applicant has calculated 100 year runoff rates for a number of separate catchment areas, which are proposed to drain via the existing (but modified) balancing ponds. I note that the proposal includes for surface water to be attenuated at source (with

temporary storage and flow restrictions within each catchment area). However, it is requested that the applicant be required to calculate Greenfield runoff rates for a range of rainfall events and investigate further the possibility of infiltration. This will help to mimic Greenfield conditions and help to minimise water level fluctuations within the existing ponds and may reduce the amount of alterations needed to them. The ecological risks of these water level fluctuations and any works will need to be assessed.

It will be most important to ensure that the final surface water discharges into the receiving watercourse (the North Stream, which is IDB maintained) are not increased. Please note that the IDB's prior written consent will be required for any works within 8m of this watercourse, in accordance with the Land Drainage Act 1991 and IDB Byelaws. It should be noted that this is a pumped system, so increases in runoff volumes should be calculated and kept to a practicable minimum. I do not object to the proposal in principle but the rate of surface water runoff should not be increased and the increase in the volume of runoff should be kept to a minimum along with ecological impacts.

Southern Water: Southern Water records showing the approximate position of water mains within the development site. The exact position of the public assets must be determined in consultation with SW before the layout is finalised.

Should planning approval be granted then SW recognises its obligations under the new charging regime to provide capacity in the existing sewerage system to accommodate the needs of the proposed development. Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through SW's Capital Works programme. SW and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement. It may be possible for some initial dwellings to connect, pending network reinforcement. SW will review and advise on this following consideration of the development program and the extent of network reinforcement required.

SW will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of works required (if any) and to design such works in the most economic manner to satisfy the needs of existing and future customers. The overall time required depends on the complexity of any scheme needed to provide network reinforcement. SW will seek however to limit the timescales to a maximum of 24 months from a firm commitment by the developer to commence construction on site.

The planning application form makes reference to drainage using SUDS. Under current legislation and guidance SUDS are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long-term maintenance of the SUDS facilities. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

The applicant should be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises. General hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.

We request a condition is attached to the consent requiring details of foul and surface water sewerage disposal to be submitted to, and approved in writing by, the LPA. This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

Following initial investigations, SW can provide a water supply to the site. SW requires a formal application for connection and on-site mains to be made by the applicant or developer. We request that should this application receive planning approval this is added as an informative.

Homes England: In relation to the above application, I am writing to make you aware that Homes England has been in continued dialogue with the applicant to ensure that the early delivery of housing can be achieved on this site to contribute towards vital supply in Dover District in line with Homes England's key objectives.

It is now clear that this project will make best use of a site which has seen a significant level of publicly funded investment in the form of infrastructure brought forward by SEEDA and subsequent Agencies to pump-prime the land for development. This investment included the delivery of roads and utilities to serve the platforms created across the former colliery site.

Homes England fully supports this project, which will contribute towards the unmet need for housing in Dover District, with both market and affordable housing delivered and will bring forward a mixed use scheme which meets local needs and the requirements of the community.

Homes England will continue to work with the applicant to directly support the accelerated supply of new homes in the area and drive quality and delivery aligned with the core objectives of Homes England.

The British Horse Society: On behalf of The British Horse Society, an equestrian Charity which represents the 3 million horse riders in the UK. Nationally equestrians have just 22% of the rights of way network. In Kent, they have just 16.6%, increasingly disjointed by roads which were once quiet and are now heavily used by traffic resulting from development.

At a time when health and wellbeing has never been higher on both national and local agendas, horse riding is a sport which engages a high proportion of people with disabilities, women participants and participants over the age of 45. Nearly 40% of those taking part do not participate in other forms of physical activity. All these factors are very important in recognising that equestrianism is vital to the health of a significant section of the population. The contribution of equestrianism to the economy is far from insignificant. The cost is calculated by the British Equestrian Trade Association to be £5,548 per horse. A national contribution of £4.7 billion.

Dover is a district in which there is a surprising number of horse riders. We believe it is reasonable therefore to ask that, in the event that planning permission is granted, it is required that where cycleways are proposed, these are made as routes for all non-motorised users, including equestrians, which would make for a safer off road provision at a time when the additional traffic from the proposed development would render the local roads more busy. Furthermore, we would ask the Council, if it is minded to approve the application, to consider using some of the CIL money arising to improve

the off road network for higher status users of the PROW in the surrounding area which would benefit both the existing and new residents.

Kent Wildlife Trust: Previously commented, stating four grounds for objection. Having reviewed new documentation provided by the applicant we have amended or maintained our position as follows:

- We withdraw our objection on the grounds that the survey information provided is inadequate to make informed comments or to make a robust decision on the application
- We withdraw our objection on the grounds that the application underrepresents the ecological value of the site as an interconnected habitat network with high biodiversity value, instead taking a simplistic approach that considers different habitat types in isolation
- We maintain our objection on the grounds that the development will have an unacceptable impact on breeding birds, particularly nationally endangered turtle doves
- We maintain our objection on the grounds that the application will lead to a loss of valuable open space which allows local people to connect with nature.
- We lodge a further objection on the grounds that the submitted Defra Biodiversity Metric 2.0 calculation is based on a flawed assessment of baseline habitat condition, and consequently the development will lead to an overall net loss to biodiversity

Insufficient Information: We previously objected on the grounds of the lack of data provided to make informed comments and to reach a robust decision. We note that surveys have been submitted that meet our expectations, therefore we withdraw our objection on these grounds.

Insufficient consideration of habitat networks and habitat connectivity:

We previously objected on the grounds that the application does not consider the whole site and its value as an interconnected habitat mosaic supporting potentially a wide range of rare and valuable species. This particularly relates to the lack of acceptance that much of the site represents the priority habitat type Open Mosaic Habitat on Previously Developed Land (OMH). We are pleased to see that the applicant has now accepted the presence of large areas of OMH on site and are proposing compensation for loss of OMH on a nearby site in its ownership at Betteshanger Country Park. We are happy to withdraw our objection on these grounds. However, we have concerns about the way the applicant has assessed this habitat for the purposes of undertaking its Defra Biodiversity Metric 2.0 Calculation, which we will address in more detail below.

Impact on Breeding Birds: We objected to this application on the grounds of potential impact on priority breeding birds, particularly Turtle Dove. We note that the applicant has responded to objections on these grounds by proposing compensatory habitat on Betteshanger Country Park. In our previous letter we stated that we would defer to the greater expertise and experience of RSPB over the question of impact on breeding turtle doves. We note that RSPB have maintained their objection, and Kent Wildlife Trust fully supports their comments. Therefore we maintain our objection to this application on these grounds.

Loss of Public Open Space: We objected on the grounds that the application will lead to of loss of a valuable green infrastructure resource for local people to enjoy and connect with wildlife. The new proposals do nothing to compensate for loss of public open space therefore we maintain our objection to this application on these grounds.

Biodiversity Net Gain: We are pleased to see that the applicant has released a calculation for biodiversity net gain in line with our previous comments. These appear to suggest that the development, combined with proposed offsite habitat enhancement, will lead to a significant net gain to biodiversity. However having reviewed the calculation in detail we note that this assertion rests on classifying the existing OMH onsite as being in poor condition.

The criteria for OMH set out in the Defra Metric 2.0 Technical Supplement. Using the information provided in the Updated Ecological Appraisal we find it difficult to see how a condition assessment of poor is justified according to the criteria. These criteria correspond closely with the UK BAP criteria for OMH that are set out in the Ecological Appraisal, and explicitly recognise that the OMH on site meets most of these criteria. Moreover there is no mention of any of the undesirable species listed, meaning that none of the criteria for giving an assessment of poor condition have been met.

Given that most of the criteria are being met, though the criteria for moderate condition *“areas of bare ground with little species colonisation are large, with a high potential for improvement with better wildlife management”* also appears to be valid, we are of the opinion that a condition assessment of moderate would be most appropriate. We also note that the calculation similarly assigns a poor condition assessment to existing reed bed. We would challenge this assessment on a similar basis and assert that a condition of moderate would be more appropriate (see pp. 36-38 of Defra Metric 2.0 technical supplement for full condition assessment criteria for wetland habitat).

If condition assessment of moderate is applied to these onsite habitats in the baseline calculation, we calculate that the overall quantifiable loss of habitat onsite as a result of the proposed development would nearly double. This would convert to a significant overall net loss to biodiversity from the development even including the proposed offsite habitat enhancements at Betteshanger Country Park. We are therefore lodging a further objection to this application on the grounds that it will lead to a measurable net loss of biodiversity, contrary to paragraph 170 of the NPPF.

RSPB: objects to the above application on the grounds of potential impact on priority breeding birds, particularly Turtle Dove. The Turtle Dove is an RSPB priority species, worked on with other organisations as part of the Operation Turtle Dove project in order to halt the decline of this species. The turtle dove is the UK’s fastest declining breeding bird and is threatened with global as well as national extinction (IUCN Red List of Endangered Species and UK Red List of Conservation Concern). Breeding populations, both in England and in Europe, have collapsed in recent decades and the decline is continuing. The latest UK Breeding Bird Survey data shows a 94% fall in breeding abundance between 1995 and 2017.

Turtle doves have been a focal species for conservation delivery in England for over a decade. However, the continued decline of the UK population indicates that relying on the recent level of conservation delivery through agri-environment schemes, and localised measures deployed on reserves, has been insufficient. Therefore, a more targeted and intensive species-recovery approach is required rapidly, focussing on their remaining core breeding range which we have identified as Turtle Dove Friendly Zones (TDFZs). Here we focus on working with farmers, landowners and local communities to highlight the plight of this species and deliver habitat on the ground.

Kent is the stronghold for turtle doves which have a total of 12 TDFZs. The 4 breeding pairs noted in the Ecological Appraisal at Betteshanger form a significant population of the Lydden Valley TDFZ where our Conservation Advisors work to improve turtle dove

breeding success through delivering habitat, supplementary food and technical advice. The RSPB has major concerns about the impact this development will have on this population.

The RSPB still has major concerns on the impact this change of land use will have on the population of turtle doves, a species which is now the UK's most threatened breeding bird. Betteshanger forms a significant population of the Lydden Valley Turtle Dove Friendly Zone, which is one of the remaining strongholds for this species. As such, we have a dedicated Conservation Advisor working to conserve their breeding and foraging habitats in this area through delivering habitat, supplementary food and technical advice. This is vital work if this population is to continue to thrive.

Disturbance impact: We remain with the view that although three of the turtle dove breeding territory areas will be retained within the new development, the encroachment and increasing levels of human disturbance will have a negative impact on this species given the proximity of the proposed housing to turtle dove territories recorded during the Aspect Ecology's Ecological Appraisal. There have been a number of studies that have demonstrated that turtle doves will not tolerate human disturbance next to any potential breeding sites. Turtle-dove *Streptopelia turtur* (2018 to 2028) "While tolerating human presence, dislikes breeding in or very near towns, villages or farm settlements.While owing much to man's cultivation and land management (sic), not prepared to accept relationship as close as those of Collared Dove, feral Rock Dove or Woodpigeon, in this respect being even more reserved than Stock Dove."

In addition, the distribution model for turtle dove in the upcoming European Breeding Bird Atlas (EBBA2) shows turtle doves are rapidly disappearing from urban environments and areas densely populated by humans.

Studies have shown that recently fledged turtle doves will rarely venture more than around 300 metres from the nest site and at this stage are likely to: 1. be very vulnerable to predation. With increased human habitation it is possible there may be adverse effects from generalist predators (e.g. cats, rats) that tend to congregate near to human habitat. 2. incur poor body condition if there is insufficient food nearby in the form of natural arable plant species.

Mitigation - As part of the mitigation for the loss of the fourth breeding territory, a proposed plan of the creation of turtle dove habitat has been put forward for Betteshanger Country Park, as outlined in the OMH Management Plan. While we welcome the inclusion of specific measures being proposed in relation to turtle doves, we have further concerns with the suitability of this mitigation.

There is a requirement for a more comprehensive data set to be included in the report such as, a baseline breeding bird survey. This should be undertaken before committing to any major habitat changes, as any habitat works could be detrimental to existing species already present. An analysis of BTO data for example has shown 15 registrations of turtle dove spanning from 2012 – 2019. Having known records on the site would suggest that there are already areas that provide habitat to support nesting turtle doves. Any habitat works would therefore be considered improvements rather than creation and can not be classed as net gain.

Betteshanger Country Park is opened to the public and use of the entire site is encouraged by cyclists, walkers and family groups. Although the plan sets to focus public access away from the areas planned for turtle doves, there is nothing stopping people from accessing and using the entirety of the site. The plan demonstrates a

weak understanding of the pressures on the site of which will diminish its attractiveness to wildlife.

Planning/Policy considerations

a) NPPF Paragraph 175

b) Natural Environment and Rural Communities (NERC) Act 2006

Section 40 contains the general biodiversity duty "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity."

Turtle Doves are listed under Section 41 of the NERC Act as a priority species.

In summary, given the proximity of the proposed development to the current turtle dove territories, RSPB have major concerns that these areas will become unsuitable for breeding turtle doves, thus potentially losing the entire population at Betteshanger. The mitigation at Betteshanger while welcomed is not sufficiently adequate to address our concerns. On that basis, we cannot remove our objection and suggest that other options to secure more appropriate off-site mitigation are investigated.

Further comments - The RSPB maintains their objection on the grounds of the potential impacts on turtle doves. We welcome the need to look at appropriate mitigation locally for turtle doves should Dover Council be minded to grant permission for the proposed development at Betteshanger Sustainable Park.

RSPB met on site with the developers and ecological consultant in December 2020 to look at the potential of offering mitigation for turtle doves within Betteshanger Country Park. As discussed at the site meeting and outlined in our previous response to the application we believe full ecological baseline surveys need to be undertaken before assessing the appropriateness of possible mitigation measures for turtle doves at Betteshanger Country Park.

It is clear from discussions and historical data available, that Betteshanger Country Park currently supports high levels of biodiversity. Until up-to-date ecological baseline surveys have been completed, we believe is not appropriate to make an informed assessment on whether mitigation proposals are adequate. Although habitat containing three turtle dove territories is to be retained at the proposed development site, we still have concerns on the impact the development will have on these territories.

Council for the Protection of Rural England: CPRE Kent considers that there is no planning case for the development of this site and objects to the application for the following reasons, which are expanded upon in the full response online:

1 The site is not allocated for housing, The preamble to saved policy AS1 (Betteshanger Colliery) at para 15.04 states that "The redevelopment of the site for housing, retail or intensive recreation uses would not be acceptable."

2 The site lies outside the adopted CS Settlement Boundary - 3 The Aim of the Local Plan Strategy of the Adopted CS. Policy DM1 Settlement Boundaries. The CS defines a Hamlet as 'Name used in the Settlement Hierarchy to describe settlements with no facilities. Not suitable for future development.' The applicants Travel Plan at Table 3.3 Local Facilities indicates that other than Betteshanger Social Club there are no other facilities near the site. On the evidence provided there is no over-riding need for development at this location.

3 The site is in an unsustainable location and cannot be made sustainable – The preamble to saved policy AS1 (Betteshanger Colliery) at paragraph 15.03 states that “In locational terms, the site is not sustainable”. Nothing has changed to make the site sustainable in locational terms. The Travel Plan shows that the site is not well served by services and facilities: Northbourne Parish Hall 4.2 (950m walk). There is no assessment of how these facilities are used and if there is any capacity to serve the proposed new development. The nearest primary school is Sholden C of E Primary 2.8km away. The main centres of employment and main shopping centres are over 5km away. There is a very limited public bus service: There is no evidence that the scale of development will enable a more regular bus service. This suggests that people will have to travel by car if they need to travel to and from work, go shopping or travel for entertainment.

There is an hourly rail service from Deal to St Pancras which takes an hour and forty minutes, and two trains an hour to Canterbury West which take either an hour and twenty minutes or an hour and fifty minutes. The car journey from Betteshanger to Canterbury is a 31-minute drive. This suggests that people are more likely to drive to Canterbury than travel by rail.

The travel plan refers to existing footpath and cycle routes in the area. There is no assessment of the quality of these routes. Are they surfaced and available all year round? PROW EE369, EE369A and EE370 for example are dirt tracks. The western end of PROW EE369 runs through woodland. They therefore do not make suitable/practical routes for school children, those on their way to work or attending Northbourne Parish Church or using the Church Hall. PROW EE369 and EE370 for example are unlit. Are they safe / do they feel safe for women and children to walk on their own? The footpath along Deal Road north of Sholden is unlit and in many places looks onto open fields. These PROW do not provide safe, passable all year-round routes and cannot be relied on to be used by residents to reach nearby villages and Deal.

It is noted that the Transport Study provides an assessment of mode of travel to work. This covers a large geography that is both urban and rural in nature and includes the northern part of Deal. LSOA E01024201 which more closely aligns with the rural area around Betteshanger provides a better picture. This brings into serious question the ability to achieve the Likely Mode Spilt figures, and thus the aim of the Framework Travel Plan to promote a shift away from car-based travel and encourage existing and new businesses on site to move toward more sustainable travel.

The PM announced that the UK will eradicate its net contribution to climate change by 2050. A statutory instrument was laid in Parliament which amended the net UK carbon account target from 80% to 100%. The recent House of Commons Committee report in its Conclusions and recommendations encourages the Government ‘to develop and act on policies to ensure that the UK is on track to meet a 2050 net-zero emissions target’ and that ‘it must seek to achieve this through, wherever possible, domestic emissions reduction.’. In the long-term, widespread personal vehicle ownership does not appear to be compatible with significant carbonisation. This should aim to reduce the number of vehicles required, for example by: promoting and improving public transport; reducing its cost relative to private transport; encouraging vehicle usership in place of ownership; and encouraging and supporting increased levels of walking and cycling.

The UKFIRES report Absolute Zero sets out that for the UK to achieve zero carbon emissions by 2050 road use will need to be at 60% of 2020 levels - through reducing

distance travelled or reducing vehicle weight; and that total energy required to transport food will need to be reduced to 60%. The Framework Travel Plan assumes that future modal split will mirror the 2011 picture. This will not help achieve the 60% reduction in distance travelled identified by UKFIRES.

The aim of the Framework Travel Plan is “to promote a shift away from car-based travel and encourage existing and new businesses on site to move toward more sustainable travel. It provides neither evidence that it will be possible to reduce reliance on the use of cars and vans and increase the use of public transport and active travel, nor actions that the developer will take to achieve this aim or concrete proposals that will result in a change in behaviour. The proposed development makes no positive contribution to achieving governments zero carbon level targets, nor the Council’s own Climate Change Emergency declaration.

4 The site is in an area of intrinsically dark skies – NPPF paragraph 180 requires planning decisions to ensure that “new development is appropriate for its location taking into account the likely effects (including cumulative 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. In doing so they should: c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.” The CPRE Dark Skies map indicates that the site lies within an area of darker night skies. The proposed development would introduce light pollution into an area of intrinsically dark landscape contrary to the NPPF.

5 The site is in an area that is some of the more tranquil parts of the district – Contrary to para 180 of the NPPF - The CPRE Tranquillity map indicates that the site lies between moderate and most tranquil. The proposed development would reduce the tranquillity of the area contrary to the NPPF.

6 The site is Previously Developed Land that is regenerating back to nature - The NPPF Glossary describes PDL as: “Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: ... land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.” The site has been vacant for some 30 years and not only is it being reclaimed by nature but also tree planting has been undertaken and walkways have been created for the public. The application seeks to redevelop much of the site contrary to the NPPF.

7 Open Space – CS policy DM25 Open Space resists development proposals that would result in the loss of open space. Point 2 refers to where there is a qualitative or quantitative deficiency in public open space in terms of outdoor sports sites, children’s play space or informal open space the site is incapable of contributing to making it good. The site layout indicates that much of the site, excluding water bodies will be developed. This will significantly reduce the area of public open space, wildlife habitat and biodiversity opportunity area. The development will destroy all the rewilding that has taken place since the colliery closed in 1989 along with all the tree and bush planting and public paths provided through funding. It also forms part of the Miners Trail, is used as public open space and no evidence has been provided that the site has no nature conservation value. Development would result in the loss of this public open space. If the Council is minded to approve this application it will be important that there will be pedestrian, cycle and horse connectivity to the country park - and that the

routes into it are protected. Horse crossing lights should also be introduced, where the button is high enough to be pushed from the back of a horse.

8 Green Infrastructure Network - CS CP7 Green Infrastructure Network seeks to protect and enhance the integrity of the existing network of green infrastructure through the lifetime of the Core Strategy. 'Improvements to Green Infrastructure Network' identifies the application site as part of a wider area for proposed network improvements. Development on the scale proposed will not help achieve this. The eastern part of the site adjoins the North Stream SSSI and housing is proposed adjacent to it. NPPF paragraph 175. There will be predator pressure and disturbance from domestic animals which along with human activity will have an adverse impact on wildlife and housing at this location would be inappropriate.

9 Heritage – NPPF paragraph 193 and 194. CS Policy DM19 Historic Parks and Gardens. The south western part of the application site is in close proximity to Northbourne Court Park and Garden (Grade II*), within which are 5 listed buildings (ranging from Grade II* to Grade II). The Park and garden adjoin the Northbourne Conservation Area within which there are 15 listed buildings (one Grade I, one Grade II*, and thirteen Grade II). There are also three listed buildings at Marley Lane and three at Finglesham. Whilst the application is accompanied by a Built Heritage and Archaeological Assessment it does not appear to consider the impact of the height and density of proposed development on the setting of these heritage assets. It is therefore not possible to be convinced that the proposed development will not result in substantial harm to Northbourne Court Park and Garden contrary to the NPPF and Policy DM19.

10. Local traffic issues - 46 There is local experience that there are already holdups on the Eastry and Sandwich Bypasses. The HELAA for the site states: "Site observations suggest that the existing access road/junction onto the A258 appears to have residual capacity with limited queuing, however a development of this size and scale could have an impact on traffic flow on the A258 corridor as it would generate far greater opposing movements than are currently experienced, therefore more detailed traffic study and capacity checks will need to be undertaken to check the impact of development at this junction." The HELAA also recognises that "the proposed site is surrounded by a network of rural routes that in their current form may not be suitable to accommodate significant increases in traffic flow (without improvement)." Improvements to these rural roads is likely to adversely change their character along with rural nature of this area.

DoT manual Annual average daily flows traffic data for the A256 and A258 show that vehicular traffic has increased significantly on these roads since 2001/2002. It should be noted that the data shows that bus and coach services have reduced significantly over this period. Given the low usage of pedal cycle and public transport it is more than likely that residents of the proposed development will travel by car adding further to traffic on not only these A roads but also country roads.

11 Ecology - Limited ecological evidence has been supplied by the applicant. NPPF 170 (d) and 175 (d) respectively require development to minimise impacts on and provide net gains for biodiversity. The Environmental Bill sets this as 10% biodiversity net gain. The application does not appear to provide for a 10 per cent biodiversity gain, rather results in a loss of biodiversity. CPRE Kent's Ecologist has the following comments on the Ecological Appraisal: In our opinion, if it is necessary to survey for six different priority species on one particular site, then this would be regarded as a biodiverse site and not as described above, 'to be of limited ecological value'. Since

the mine has closed this area has regenerated and been repopulated by a range of flora and fauna. Betteshanger colliery is unique in that it offers a rich diverse mosaic of habitats ranging from woodland, brownfield, wetland, grassland and ponds. This site is marked on KCCs Kent Land and Information System (KLIS) as a Biodiversity opportunity area.

Statutory Designations. The Northern most point of the site lies directly adjacent to several nationally and internationally designated sites including SSSI, Ramsar and UK BAP plus other priority grassland and woodland areas. The proposed development at its most northern point overlaps a biodiversity opportunity area which would be lost where the development to be allowed to proceed. When a development overlaps or sits adjacent to nationally and internationally important designations, the site itself then must be afforded the same considerations as if it were a SSSI or RAMSAR. SSSI and Ramsar intersect the north eastern part of the site and also lie adjacent to part of the north eastern boundary.

The Government guidelines clearly state: "If your proposal also affects a European protected site which is, or is proposed as, a SAC, SPA or Ramsar wetland, the planning authority will need to do a Habitats Regulations assessment. We see no evidence of a HRA having been completed, yet the development cannot fail to negatively affect the adjacent designations due to the proximity of the proposed development, plus no obvious regard for these sites have seemingly been considered, this is evident as very little in the way of buffer zones have been offered and the detailed plan shows intended construction on every available green space with the exception of a mown area in the centre of the site. There are a number of ways in which this development is highly likely to directly impact the protected sites. 1. Increase recreational pressure 2. Increase in light pollution 3. Increase in domestic pet predation and disturbance 4. Increase in noise pollution.

Furthermore, the Government gives clear advise about development in or near SSSIs and sites with European protection "Sensitive areas The more environmentally sensitive the location, the more likely it is that the effects on the environment will be significant and will require an EIA. Certain designated sites are defined in regulation 2(1) as sensitive areas and the thresholds and criteria in the second column of the table in Schedule 2 are not applied. The Government states. "An Environmental Impact Assessment is more likely to be required if the project affects the features for which the sensitive area was designated." Habitats and Ecological Features. The report states "hedgerows, deciduous woodland, ponds and lowland fen are considered to potentially qualify as Priority Habitats and may constitute important ecological features." However, according to MAGIC (Defra), the area referred to as W1 in the report, is listed as priority habitat. W1 and W4 are earmarked for 'some' clearance work. states, "some minor clearance works are proposed in relation to woodland W1 and at the eastern edge of woodland W4, comprising around 0.4ha in total (less than 10% of the total woodland area)". These two areas of woodland are the only two areas marked as priority habitat.

This eroding of habitats within and around the proposed site will only serve to negatively affect the surrounding designated sites as flora and fauna do not recognise humane boundaries drawn on a map and will undoubtedly migrate between areas. The woodlands, hedgerows (also a priority habitat) and newly planted woodlands together with the pond and reed bed serve to enrich this area and compliment the designated areas. It is important to consider Betteshanger colliery holistically and not each micro habitat in isolation.

According to the Ecological Appraisal there are protected species surveys outstanding or in the process of being completed, we look forward to reading these reports with interest. These include: Bat; Badger; Water vole; Great crested newt; Reptile; Invertebrates We also look forward to a full botanical survey. Pennyroyal is Critically Endangered on the England Red List and was an 'original' BAP species with a Species Action Plan and is also Schedule 8. Lizard Orchid is Near Threatened on the GB Red List, is Vulnerable and Near Threatened, according to Plantlife and is Schedule 8.

Further comments: We have already responded in detail why turtle doves, Britain's smallest dove, are in such drastic decline and wish to add further comment on this subject. One of the reasons we highlighted was habitat loss as a direct result from human encroachment and development.

We recognise that Aspect ecology has stated that woodlands 1 & 4 are to be fully retained and this is to be welcomed. However, the likely reason Turtle doves have chosen Betteshanger as a suitable nesting area is not simply due to tree canopy and available nesting sites. Whilst canopy and scrub are important factors for turtle doves, they are one of a number of suitable habitats types that are sought by this now extremely threatened and rare species.

Food and habitat shortages in the UK are two of the most important factors in these birds decline. A good canopy ticks one box, but food resources are still a major issue and it is this latter reason that turtle doves are likely to have chosen Betteshanger to be a suitable place to breed. Betteshanger boasts a unique open mosaic habitat. Turtle doves are predominately granivorous (seedeaters) and are primarily ground feeders, so to access the seed successfully from the ground, turtle doves need sparse and low vegetation, typical of the type of flora found in and around quarries and abandoned mines.

In Europe and the UK alterations in the quality and type of habitat have been linked to the reduction of the number of breeding birds. Turtle doves generally nest in bushes, trees, and mosaic habitats with sparse undergrowth, exactly the type of vegetation found on old mining sites such as Betteshanger colliery. This helps to explain why Betteshanger is so special and unique and has been chosen by several pairs of this rare bird as an ideal area in which to safely, and successfully, breed and return to year on year.

It is not simply nesting sites that have attracted these birds to Betteshanger, it is also the mosaic habitat utilised for feeding purposes, the very habitat that will be destroyed and covered in housing, were this development to go ahead. Therefore, it is not enough to preserve the woodland and some of the scrub in isolation, as it is the site as a whole that needs to be protected in perpetuity.

Furthermore, CPRE Kent has previously highlighted domestic cat predation as a high risk to the survival of the turtle doves on this site and being ground feeders, this makes them especially vulnerable along with intensified human and dog disturbance, noise and pollution/poisoning from the likely use of insecticide and herbicide that may be used in gardens and any ground management carried out.

Sandwich Bird Observatory: The observatory can confirm the site has Turtle Doves present. I have seen small numbers of this nationally threatened species at the site myself and we also have supporting evidence. Bearing in mind the national status of the species, for that reason along the Observatory lodges an objection to the development proposed. We also wish to point out the importance of conserving any area of land in the highly intensive farmed area of East Kent that is in the process of

rewilding itself, especially were, as in this case, the area is adjacent to residential area. The site thus lend itself to being both a wildlife reservoir and as well as an important local amenity.

Northbourne Parish Council: resolved to object to this development on the grounds of density of development, social impact and a strong desire to preserve the character of the Parish. After careful consideration of the revised environmental mitigation measures proposed by the developers, the decision stands. The position of the PC remains the same as they fundamentally object to this potential development and as part of this view are also taking into consideration the strong feelings of local residents and consultees who are concerned not only about the social and traffic impact on the Parish, but also about the environmental impact that development will have on local wildlife habitats.

Deal Town Council: strongly objects - There are serious environmental issues to be addressed as raised in the EHOs report and we request that a complete independent ecological assessment is carried out. There are far more suitable brown field sites available and the North end of Deal has already undergone large developments in recent years.

This development will have major impact on local amenity, infrastructure, and traffic. A development of this scale should have more than one point of access as alternative surrounding roads are rural routes, the amount of traffic that would increase will have an impact on the main route in and out of Deal as pointed out in the KCC Highways document.

Proposed land needs to be conserved due to being a wildlife reservoir (as stated in Sandwich Bay Bird Observatory)

Public consultations from the developer need to be put in place prior to any decisions being made to enable any concerns/issues to be raised. Object as the developer has not had the opportunity to arrange or present a detailed public consultation prior to submitting the application.

Object - we feel it is too large in its current form and have a negative impact on the highway and environment. However, as previously proposed would welcome the opportunity to discuss flexibilities within the proposal. Would both fully support and recommend a public consultation by the developer.

Object – we feel it is too large, is within a flood plain, will have a negative impact on both the environment and highways. Also, concerns were raised about the proximity of the site to Pit Head and the removal of established trees.

Sholden Parish Council: objects. There are numerous breaches of Local Plan and NPPF policies. In addition, SPC fully supports the objections raised by Northbourne and Worth PC, the objections from the members of the public and the case for refusing planning permission made by CPRE.

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. Policy DM1 states that development will not be permitted outside the settlement boundaries, unless it is justified by another development plan policy,

functionally requires a rural location or is ancillary to existing development or uses. The potential Betteshanger Grove site is located outside the defined settlement confines (and is not supported by other development plan policies and is not ancillary to existing development or uses). As such, the application is contrary to Policy DM1.

Policy DM11 is also breached, the proposed development is outside the settlement confines. In view of the distances of the proposed site from the nearest town centres and their amenities/facilities (shops, recreational facilities, beaches, medical facilities, schools, waste recycling etc.) it is most likely that the occupants of the development would be reliant on the use of a car or cars to travel to reach all these necessary day to day facilities and services. Car travel will especially be increased by the bisection of the Miners Way. Because the development is not justified by other policies, the development is contrary to Policy DM11 – the generation of high vehicular travel outside confines. Others have stated, with evidence, that there are neither reasonable nor realistic alternatives to car travel available to the future residents.

Policy DM15 (applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of its exceptions criteria). Policy DM15 resists the loss of countryside (i.e. the areas outside of the settlement confines) or developments which would adversely affect the character or appearance of the countryside as well as not resulting in the development losing ecological habitats. But a potential development of this size can only result in the loss of countryside.

In anticipation that paragraph 11 of the NPPF is invoked, SPC respectfully refers Members to the High Court Judgement (Gladman Developments Ltd Vs SSHLCG & Corby BC & Uttlesford DC [2020] EWHC 518 (admin). In that Judgement, it is our understanding that Judge Holgate concluded that paragraph 11(d) (ii) of the NPPF did not exclude consideration of development plan policies in favour of the “tilted balance”. In essence, Members can give weight to Policies DM1, DM1 and DM15. In addition, Paragraph 177 ensures that the presumption in favour of sustainable development does not apply when proposed developments impact on Special Protection Areas, Ramsar sites and possible Special Areas of Conversation. Without the evidence of an EIA this proposed development does just that.

Notwithstanding that SPC considers that permission should be refused on breaches of adopted Local Plan policies alone, it would be unwise not to consider NPPF policies. Thus, in terms of the tilted balance, if the NPPF is active its policies should be given significant weight in decision making. In this application there are numerous conflicts with the material considerations of the NPPF.

Paragraph 6 of the NPPF states that “Other statements of government policy may be material when preparing plans or deciding applications....”. The government has quite clearly stated that planning applications should have minimal conditions. This application, should it be granted, has the potential for many conditions thus conflicting with not only paragraph 6 of the NPPF but also paragraph 55: “Planning conditions should be kept to a minimum....”. In addition, central government has said that the views of those affected by the proposed development should be taken into consideration.

Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 identifies that achieving sustainable development means that the planning system has three overarching objectives, all of which should be interdependent and therefore need to be pursued in mutually supportive ways. These are:

(i) an economic role - Unfortunately, because of the current pandemic both nationally and locally (loss of jobs at Dover port etc.) there is no evidence that either the number of dwellings or business area of the proposed development will be occupied in the foreseeable future.

(ii) a social role - As above, unfortunately there is the distinct possibility that the whole proposed development, if permission is granted, could become an uninhabited blight on the landscape that could rapidly have a negative impact on the surrounding communities.

(iii) an environmental role - Alas, because of (i) and (ii) above that is not going to happen.

Paragraphs 10 and 11 of the NPPF deal with the presumption in favour of sustainable development. As detailed above the adopted Local Plan are active and thus the “tilted balance” is inactive. In addition, the application of policies in the NPPF (should the tilted balance be applied) when related to this development, protect areas and assets of particular importance and thus will provide clear reasons for refusing the proposed development. That is, there are many adverse impacts that significantly and demonstrably outweigh the benefits of this development when assessed against the policies in the NPPF.

Paragraph 91 states that planning policies and decisions should aim to achieve healthy, inclusive, and safe places which promote social interaction, safe and accessible neighbourhoods and enable and support healthy lifestyles. Unfortunately, at present none of those virtuous places can be guaranteed by either conditions or Section 106 agreements quite simply because no one knows the economic and social impact. In addition, for cycling and walking, the current Miners Way (which would be the main route of cyclists and walkers) will be bisected by the proposed development. Members should note the details of the Kent Police letter. Kent Police have some serious concerns about this application and SPC is unaware that these have been addressed. As such, the application breaches NPPF paragraph 91 b.

The applicant has submitted a comprehensive TA. The size of such an exercise, whilst on the positive side seeming to exercise due diligence, on the negative side, quite clearly indicates that the applicant has serious concerns that its proposed development may conflict with paragraphs 109 and 110 of the NPPF. Residents both within and without the proposed development area have further transport concerns on increased traffic movements in the outer road areas, particularly (i) Upper Deal Roundabout and (ii) extra traffic through Sholden. In addition, there are serious concerns about additional vehicular movements caused by increased regular school attendance. Further to that, SPC notes that there is also the possibility of traffic holdups on the Eastry/Sandwich By- Pass. Conflicts with paragraph 110 (pedestrian and cycling movements). Bus transport is also a subject of contention (110 a).

The DDC 2020 HELAA is quite clear on the transport/traffic issues that this proposed development will bring. As above, these concerns would warrant refusing the application because of the unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 127 details how planning applications should ensure that the proposed development will (amongst other things): (i) add to the overall quality of the area and be visually attractive (ii) be sympathetic to local character and history... (iii) create places that are safe, inclusive and accessible and which promote health and wellbeing, 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. The proposed development is highly likely not to evolve (economically, socially, or environmentally) as planned, even though it is only an outline application and as such conflicts with Paragraph 127.

Paragraph 175 (and other paragraphs of Section 15 of the NPPF) states, inter alia, that when determining planning applications, the local planning authorities should apply certain principles:

(a) if significant harm to biodiversity resulting from a development cannot be avoided...or adequately mitigated or, as a last resort, compensated for then planning permission should be refused.

(b) development on land within or outside of a SSSI and which is likely to have an adverse effect on it (either individually....) should not normally be permitted.

Members when considering this application, will be aware of the vast amount of ecological expertise from the local community and beyond. Five of the key points are listed below and in and of themselves constitute significant harm to, and adverse effects on, the biodiversity resulting from the proposed development. Thus, the proposed development will not protect sites of biodiversity value, will conflict with Paragraph 170 a) and therefore planning permission refused.

(a) the proximity of the development to the Thanet Coast and Sandwich Bay RAMSAR site and the Sandwich Bay to Hacklinge Marshes SSSI. These sites are among the most important for nature in the UK. Their urbanisation is recognised by DDC as being likely to cause a 'significant adverse effect'.

(b) the Sandwich Bay Bird Observatory is quite clear in that the development will seriously impact a rare and endangered bird.

(c) there are reports that the rare lizard orchid exists on the development site.

(d) Overall, the proposed site will decimate a flourishing, ecologically diverse re-wilded natural area which neighbours other key ecological sites.

(e) there is now an extraordinarily strong claim for a formal, independent EIA. Another issue is that ecological reports tend to look at issues specific to the area to be developed. As Members will be aware, there are, in the vicinity of the proposed site, other major developments (proposed and agreed). As the CPRE say this is important as one must look at the cumulative effect on nearby protected sites. Proposed developments should not be considered in isolation. An EIA will give a better-informed holistic view of the area.

All the above cannot but lead the Decision Makers to refuse planning permission. The evidence of conflict with Local Plan Policies of the CS and NPPF is overwhelming. There are two holding objections and no evidence of mitigation. Other statutory consultees have reservations of such a serious nature, that many conditions are being requested. In addition, there are many members of the public wanting the application refused.

KCC Highways letter says that there is extant permission on the site. It has confirmed as "DOV/02/00905 for B1, B2 and B8 uses on the site, confirmed as extant by the Planning Authority". SPC would challenge that there is any extant permission or predetermined permission on this land. The current outline application is for 210 dwellings. 20/00419 bears no relation at all to DOV/02/00905. There are statutory time limits on extant permissions. All of which have expired.

We are also aware of "Saved Policy" AS1 – this clearly indicates that the land and area is not suitable for the proposed development. There is no record that this "Saved

Policy” is out of date or redundant. It therefore follows that the application should be refused on AS1 alone.

We also note that there is a petition on the portal which has only been counted as one objection. It contains hundreds of objections. That is important as it engages NPPF 9: “Planning Policies and decisions should play.... but in doing so should take local circumstances into account to reflect the character, needs and opportunities of each area”.

Worth Parish Council: opposed to the proposed development of Betteshanger Grove (formally Fowlmead Country Park). Proceeding with the application based solely on the environmental study carried out on behalf of the developer, is unethical. A completely independent ecological assessment needs to be carried out before any movement towards approving this application. Betteshanger Grove is a site that has been, relatively recently, rewilded. Whilst the site is already supporting rare and endangered species it is minuscule compared to what it could support if the site is allowed to mature, as was originally planned. The future habitat that Betteshanger Grove will become and it's greater potential for supporting a diverse range of birds, plants, and invertebrates should also be taken into consideration.

This development would be the "tip of the iceberg". Once residential housing has gained a foothold on this beautiful site further development would inevitably follow. There must be brownfield sites that could be developed before allowing the sprawl of urbanisation to join Deal and Sandwich together.

Public Representations:

A total of 182 objections have been received to date this includes a petition with 3000 signatures objecting to the proposal. These are summarised below:

- Impact on neighbours
- Don't need more houses in rural areas
- There are no primary schools nearby
- Adverse effects on designated sites adjoining the proposals
- CS HRA identifies potential harm from urbanising effects
- Damage to designated sites through increase use of public footpaths and access
- Increased water pollution from the site affecting the designated sites
- Unacceptable recreation pressure of the ecological designations, houses are too close
- The scheme should use ground source heats pumps etc
- The ecological surveys submitted are unacceptable and of a poor quality
- Established trees are being lost on the site and should be retained
- How can 10% biodiversity net gain be achieved when wildlife is being destroyed
- It sets a precedent for a pattern of development that offers no evidence of being sustainable and could lead to unplanned/unacceptable expansion of the surrounding rural area
- The development is out of keeping in the rural environment, too big and will dominate a rural parish
- There will be a huge increase in noise and light pollution
- The site has amenity value for the local community
- Houses are being proposed on contaminated land
- Deal needs employment opportunities and jobs for the local community
- There are no jobs in Deal and few opportunities
- There is little public transport to service the proposed development

- Footpaths and cycle links to the site from Deal are required
- Biodiversity and the landscape should be the key considerations
- Deal congestion in the local area will only get worse
- Housing on the site needs to be affordable/social
- High levels of pollution and potential mine shafts on the site it is not suitable for housing
- Potential noise to homes facing Intercrop, generators operate 24 hours a day
- There will be impact on local footpaths
- Half the number of houses proposed would be more suitable, quiet village life no longer, it will ruin our village community, leave it alone
- Kent is supposed to be the garden of England
- Deal doesn't have the infrastructure for more housing
- People can't afford the houses that are being built
- Crime and anti-social behaviour will increase
- Why is Sholden taking so much new development
- The road network needs to be improved
- The site should be retained for employment or retail uses
- The area will lose its community spirit and will ruin the town and rural areas
- Local people do not benefit, they are not built for locals or young people of the area
- The Betteshanger site has been re-wilding over the 30 years since the colliery closed and SEEDA planted 140,000 trees at public expense
- The presence of turtle doves reflects the early success of this regeneration scheme which was sponsored by central and local government. It will hardly be enhanced by the proposed development
- NPPF says that LPAs should 'identify and protect tranquil areas that have remained relatively undisturbed by noise and are prized for their recreational and amenity value'
- DDC should require more green and carbon neutral features
- Toxins could leach from the site through its development
- Dealing with contamination could result in more landscaping and wildlife destroyed
- Increased drainage issues and flooding from more impermeable surfaces
- Commercial uses aren't acceptable on this site
- There will be loss of habitat and will no longer be the amenity for local people to walk and enjoy the wildness of it.
- There will no longer be a thriving wildlife community including threatened and rare species
- Lack of medical facilities locally and lack of funding for them
- More development in the countryside
- Historical and local interest of the site will be lost
- Added strain on existing utilities, schools and GP's etc.
- All car parks in Deal are full
- The highway capacity is already struggling to cope with queues at peak times
- Existing problems should be fixed before adding more houses
- The site is well used by families, dog walkers and cyclists
- The site should be left unused and let nature thrive
- Hedges and trees have already been cut during the nesting season
- The public park on site isn't maintained now
- The site should become a nature reserve
- The site is locationally unsustainable and DDC have stated this in the local plan

- Rural lanes are used for rat running already affecting locals and the horse riders, walkers, cyclists and school children who use them
- Penny Royal is a schedule 8 plant protected under the terms of the Wildlife and Countryside Act of 1981. It is found between the road and the sewage treatment works at the edge of an area of scrub and a second patch to the right of the sewage plant gates under a poplar tree. This is the second schedule 8 plant to be found on the site, the other being grass poly. What steps will be taken to ensure the protection of these plants
- A lichen survey of the Betteshanger site is necessary to fully establish the biodiversity interest of the site
- The environmental impact that this development could have - leading to the loss of habitat and the destruction of rare flora
- Rich biodiversity of fauna and flora found on site and the urgent need for precautionary protective measures
- The site needs preservation not destruction a space for now and for future generations
- The site is designated for employment use and this should be upheld
- Northbourne is a designated rural hamlet and should be maintain as such
- Areas downstream will be further affected by flooding even with SuDS proposals
- DDC initiate their own EIA to highlight the naturally evolving biodiversity of this land, site and wildlife habitats
- The impact on Middle Deal Road is not assessed, Deal needs a relief road rather than additional measures on London Road that will not be affective
- Passive house standards should be applied
- A full EIA should be required for this development
- Reduce the number of buildings and residential dwellings
- Protect all the trees planted (which are starting their life as carbon-sinks)
- Subsidise 3 years of public transport to mitigate the traffic impact on an already congested town
- Put in an all-weather foot + cycle path running between the Miners' roundabout, through Fowlmead, with footbridge over railway line to North Deal
- Need a contractual agreement on the completion of the mining museum and the recreational and environmental enhancement of Betteshanger Country Park
- Full and through ecological surveys need to be undertaken
- Many bird habitats are also protected and LPAs have a duty to conserve their biodiversity
- What is planned will threaten the lives of many animal and plant species
- Some important plant species have already been damaged by careless or deliberate mowing
- The list of flora and fauna is long and demonstrates that this piece of land is of huge importance
- DDC has declared a Climate Change Emergency
- Biodiverse and wild places such as this should take centre stage in mitigating the effects of climate change
- The proposed development will destroy this precious environment through noise, light, human presence and the carbon pollution of emissions from vehicles, boilers, etc.
- There are no social amenities provided in this development. Residents will use their cars putting pressure on the road networks.
- Heavier use of surrounding country roads must be avoided and will undermine the existing character of the rural environment and nearby villages

- Most of the houses in the proposed development are for 3 and 2.5 storey houses which would obstruct views and be out of character with the surrounding environment
- Priority species are those considered to be the most threatened and requiring conservation action under the UK Biodiversity Action Plan
- Ecological Appraisal has identified 10 priority bird species, 6 on the red list and 4 on the amber list and there is no evidence of how the plan will promote and protect these species. The plans show that territories and nesting sites will be destroyed by the removal of trees
- When SEEDA planned the Business Park, the lakes were designed as reed beds Sewage Systems, a sustainable way of dealing with water runoff. No mention is made of the Delf stream system, the springs nor the sewage system. They should all be considered in the planning of the area. The importance of water quality and high levels of chloride in the water are due to the output of water from both Betteshanger and Tilmanstone collieries
- More cars more air pollution. Dover already has dangerous levels of air pollution
- KCC is fighting to maintain services with an increasing local population
- The lack of employment in this area will be added to by further housing
- Dover have areas of social deprivation due partly to unemployment
- Re-wilded area that was developed as such over 30 years (and given substantial seeda support) should not be allowed to become a residential area
- We do not need more traffic and housing developed on beautiful countryside and wilded habitats
- These areas of Wild land are a green space full of plants and wildlife which thrive as do many other locals whom enjoy time in these spaces
- This is the only local place where those with disabilities can access wildlife with relative ease and is of great importance to the disabled community
- This doesn't help the governments future efforts to lower air pollution
- Sholden Primary School is adjacent to the A258 this will be detrimental to children's health
- Outer road network and parking in Deal has still not been resolved from the last local plan
- Quinn have made their intentions clear that their plans will not change to accommodate the wildlife, natural habitats, and range of protected species no matter how rare
- SEEDA created, designed and planted the wildlife corridors & allowed the land to develop its own rich biodiversity and has become an open mosaic landscape
- It provides shelter to numerous protected species, all listed, evidenced in detailed reports and surveys undertaken on the site, by local groups
- It will be impossible to uproot woodlands, relocate plants, butterflies, newts, ponds, rare birds, all creatures most of whom are listed as protected species and it's against the law to do so. Mitigation and relocation to an adjoining location, environment and habitat without loss, harm and disruption would be an act of vandalism for wildlife, nature
- Saved policy AS1 still applies to this location. It states " in location terms the site is unsustainable " this is a statement of fact, as applicable in 2020 as it was in 2010
- The only factor that is sustainable on this site is the rich biodiversity, natural habitats and green spaces to allow, protect and provide species on the site
- A housing estate and commercial use would destroy the culture and environment of this rural hamlet and a valued green space

- DDC's own sustainability scoping report says under biodiversity that the objective should be to "conserve, connect and enhance the districts' wildlife habitats and species". This development would be contrary to that
- All biodiversity is critically important in preventing climate change and any planning decisions now need to focus on this
- DDC overruled the recommendation of their own Officer, in the favour of the developer and doesn't consider the community needs
- We need to retain sites like this for our future, for our health and wellbeing
- The conflict is a reflection of what is happening globally, little pieces of land that were once a haven for wildlife are being lost and these many pieces of lost land are now adding up to something significant
- This site which is classed as a 'priority habitat' must be preserved at all costs
- Men lost their lives at Betteshanger Colliery, should be left as a shrine to them
- Paras 148-9 of the NPPF identify climate change as an issue
- Not an allocated site and outside confines
- Contrary to planning policies inc. ecology
- Site is of county level importance and forms a key component of the ecosystem
- Plants on the site are listed on the Kent Rare Plants Register
- The site is of such ecological value that it should be saved from development
- To grant PP would be against DDC's statutory duty to conserve biodiversity
- The proposal will result in irreparable damage and destruction of species and habitat that will not be compensated for on the country park
- Invertebrate survey is incomplete and based on development platforms
- Compensation at Betteshanger Park does not result in net gain for biodiversity and no botanical or other survey has been undertaken to establish its value
- The ecological value of the site has been downplayed throughout
- Proposals for Turtle Dove habitat are inadequate and bird species have already disappeared from the country park due to disturbance
- PP would be against para 174 of the NPPF
- The duty to protect this site should take priority
- The site is protected under planning laws
- This site should be designated as a local wildlife site to enhance and protect its value
- Overdevelopment of the site
- Site is liable to flooding
- Why is the payment for off-site recreational sport focused at Betteshanger when DDC Playing Pitch Strategy sets out Walmer Cricket Club as in need of funding for this provision
- If the strategy has changed why haven't Walmer Cricket Club been consulted
- Site should be used for renewal energy
- One of the UK's rarest plants is on the site
- Kent Biodiversity strategy needs to be taken into account, key target is habitats on brownfield sites. How does this protect and recover protected species, enhance wildlife habitats that are important to Kent
- Turtle Doves use development platforms for feeding
- Site is a carbon sink
- Tress should be protected by TPO's
- Development will affect local ecosystems
- East Kent Badger groups weren't consulted
- Impact on badger has not been fully considered
- The site is of national ecological importance and valuable for its biodiversity contribution

- Compensation is not a substantive replacement for the lost biodiversity
- Children unsafe journey to and from school
- All dwellings should be carbon neutral
- Both the application site and compensation site will be damaged and biodiversity lost
- The mitigation and compensation schemes proposed are to persuade us that the effects on wildlife have been minimised. However, if houses are built, the result will be a whole ecosystem disrupted, habitats ruined and species threatened and destroyed.
- The compensation scheme will destroy protected plants this isn't acceptable
- A proper ecological survey of the compensation site has not been undertaken, existing habitat will be affected
- Betteshanger country park already supports a wide pollution of species, how will these be affected?
- Removal of existing habitats is not acceptable
- This is not a compensation scheme
- The off-site scheme needs to be identified
- Destruction of this site is contrary to DDC's Climate Change Strategy
- Planning should protect protected and threatened species, priority habitats
- Trees should be protected by TPO's

A petition with approximately 3000 signatures has been submitted but no details have been provided regarding the petition or on what grounds it was being signed. Previous correspondence would suggest that it relates to a request for an independent EIA to be undertaken. A large proportion of the addresses were from across the UK and international addresses including a significant number from India.

Other organisations objecting to the proposal:

The Deal Society: Objects. Neither the current Local Plan nor the developing one has demonstrated that Deal has the infrastructure to sustain large housing developments on its urban boundaries. Deal has taken the brunt of delivering new housing development in the last 10 years in the district. The application lacks sufficient environmental impact assessment. The proposed development is an incursion into the rural landscape and an unwelcome intrusion. If Planning consent was to be considered the most stringent Section 106 agreements must be delivered for the completion of the Visitor centre and Mining museum. It is questionable whether the proposed housing really meets the social and economic needs of Deal in a period of acute economic downturn following the pandemic crisis and the severing of ties with EU.

Botanical Society of Britain and Ireland: object on the following grounds:

The great botanical interest as can be seen from the number of vascular plant species recorded recently on the site and which reflect a remarkable mosaic of habitats. These have developed over the last thirty years and continue to develop. Early successional communities on the thinly vegetated shale consist of a number of very interesting plants not least of those is Wall Bedstraw which occurs across the entire area marked for proposed development. Wall Bedstraw is listed Vulnerable on the UK National and England Red Data list. The same applies to Grass-poly a Schedule 8 species of the Wildlife and Countryside Act 1981 and which has its only Kent occurrence at Betteshanger. The presence of these two plants alone make the site of great botanical interest. Notable conservation status is also shown for a number of other species.

The site conforms entirely to UK BAP Priority Habitat Description for Open Mosaic Habitat on Previously Developed Land with all five of the defining criteria met. Under

Criteria 3, early successional communities are indeed composed of (a) annuals and the grasses, (b) mosses and (c) lichens, (d) ruderal communities, (e) seasonally flooded areas, (f) open grassland, (g) flower-rich grassland. Under criteria 5 The mosaic or range of contiguous plant community types do indeed merge into one and other throughout the site where bare ground merges with grassland, species rich banks and damp winter-flooded areas and wetland habitats. It seems to me that the entire BAP description for this habitat has been written for this site.

Brownfield sites such as Betteshanger need protection. The impoverished nature of the substrate and its open, free-draining nature encourages great species diversity. Such habitats are a rarity in the nutrient-rich landscape of much of East Kent. There is great interest and educational value to be had in monitoring their progress and development and no amount of mitigation could replicate or replace this. I am concerned by the proximity of the proposed development to the SSSI and the potential for a pollution incident from proposed development. The site is of obvious value to local people for recreational purposes and enjoyment of its flora and fauna.

Buglife: objects on the following grounds:

Potential impacts on an important invertebrate assemblage; Inadequate assessment of the ecological baseline and potential for losses of Open Mosaic Habitat on Previously Developed Land; Inappropriate mitigation strategy.

The application site contains historic records of a number of threatened and scarce invertebrates, including records of species now identified as either Vulnerable, Near Threatened or Endangered in modern species status reviews. The site also has the potential to support invertebrate identified as priority species under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. The 2002 invertebrate surveys identified a high value assemblage, with notable species of spider and beetle, including *Phlegra fasciata* (Near Threatened), *Xysticus luctuosus* (Endangered), *Ozyptila blackwalli* (Endangered), *Trochosa robusta* (Vulnerable) and *Ochrosis ventralis* (Vulnerable). Since then the site has undergone remediation which will of course have significantly altered the habitats on site, however, it still remains essential that an invertebrate survey is undertaken as their absence simply cannot be presumed. Without a survey, we don't know which of these species of conservation concern are still found on the application site, so the biodiversity value of the site cannot be accurately assessed. The application site is also within the Kent Coast and Downs Important Invertebrate Area (IIA). IIAs are nationally or internationally important areas for invertebrates and the habitats on which they rely, developed using strict criteria, expert advice from recording groups and statutory bodies, and based on nearly 50 million records from over 85 different invertebrate recording groups. The IIA in question has yet to be fine-scale mapped, but many of the species associated with the broad-scale map are associated with brownfield habitats such as those found on the application site.

Buglife would also like to query the habitat assessment. Aerial imagery and descriptions of the site indicate that the site has the potential to qualify as Open Mosaic Habitat on Previously Developed Land (OMHPDL), a priority habitat under Section 41 of the NERC Act. Although it is unclear if the site meets all of the necessary criteria to qualify, this would drastically alter the perceived value of the site, so a specific assessment or survey for OMHPDL should now be undertaken, in line with the response from Kent Wildlife Trust. The value of OMHPDL lies within tight mosaics of habitats, which provide a diverse range of habitats in close proximity. However, the Ecological Appraisal has assessed the individual habitat parcels in isolation of relatively low value rather than as a diverse mosaic of habitats which have a high value in combination.

Without the appropriate invertebrate species surveys and an assessment of the presence of OMHPDL on the application site, it is not possible to either assess the current ecological value of the application site nor the impacts of the development to an acceptable standard. This also makes it impossible to design a fit for purpose mitigation or compensation strategy, which must be informed by appropriate surveys.

At present, there is insufficient information for a decision to be made and a significant risk of net biodiversity loss, against the principles of the NPPF. Paragraph 170 - The current proposals have the potential to significantly impact a priority habitat type and important invertebrate assemblage, thus leading to considerable biodiversity losses. It is certainly not possible to propose any potential net gains without adequate assessment of the site's biodiversity interest. Paragraph 174 -The current proposals include the potential loss of OMHPDL which would represent a clear loss of biodiversity, as opposed to the measurable net gain required to meet the NPPF.

Buglife is of the view that at present the application fails to meet the requirements of the NPPF, due to the potential unacceptable losses of biodiversity, inadequate information and subsequent inability to ensure that there is a robust mitigation strategy and urges DDC to reject this application.

Plantlife: submit an objection to this application as it will cause unacceptable damage and destruction to important and protected populations of rare and endangered wild plants. Plantlife is the British conservation charity that works nationally and internationally to save threatened wildflowers, plants and fungi. We own nearly 4,500 acres of nature reserve across England, Scotland and Wales where you can find over 80% of the UK's wildflowers. Our team of dedicated conservation experts save our rarest flora and ensure familiar flowers and plants continue to thrive. Plantlife has extensive experience in practical conservation management, including translocations and reintroductions of rare plants, and habitat creation.

Plantlife shares the concerns raised by the council's Senior Natural Environment Officer and other local botanical experts that the proposed development will result in the loss of an extraordinary diverse range of wild plants, including important populations of Schedule 8 protected species Grass-poly, Lizard orchid and Pennyroyal.

It is our professional opinion that the proposed mitigation plans are inadequate and will not be successful, resulting in the loss of this rare plant diversity. As so much of Kent and the UK's wild plant diversity and abundance has already been lost, we urge the council to reject this application and protect the important biodiversity on this site for future generations.

13 representations have been received in support of the proposals and are set out below:

Many of the objections to the scheme have been in regard to the impact this development will have on the local flora and fauna. In response to those concerns Quinn Estates commissioned an independent in-depth study of impact on the wildlife, this identifies appropriate mitigation and compensation measures to ecology and aim to minimise their impact on the surrounding natural environment.

The local housing need in Dover district is exceeding the current supply, with inadequate numbers of homes available, but also too few at an affordable rate. With this new development, including 30% affordable housing, the need for housing will be one step closer to being satisfied for all of those with varying incomes, helping to create

a safer community. The site has not come forward over the last two decades for the development envisaged by its allocation, yet this will finally utilise this land for the development of something the local community needs, not only by increasing the housing supply and creating jobs but also due to the revenue it will generate for the local area.

This development will increase usage of the community park. The park will generate revenue that will in turn be used to develop the vitality and vibrancy of our local businesses and community spots, including our Betteshanger Social Club. Therefore, we are fully in support of this development and the additional benefits it will bring to our local community.

- 30% affordable housing on the site
- Creation of in the region of 200 new jobs attached to the new office start up units being built
- Significant and ongoing work for local builders at a time when there will have been a major downturn in their work
- 12 self build plots
- A local shop servicing all local residents

The developers have already taken on the responsibility of cleaning and looking after the ponds on the site and full support in maintaining and improving local facilities for the new and existing community. There is an existing miners social club adjoining the site. Quinn have undertaken to safeguard a parcel of land abutting the club as part of the open space for the community. This club would benefit from the arrival of a significant number of new residents and hopefully members. The developers have undertaken to complete the mining museum and further develop the social and recreational aspects of Betteshanger Country Park. This again will offer additional local employment as well as being an area that can be enjoyed by the wider community. This whole area that was once the colliery site has lain dormant for too long and the potential for an exciting development and vibrant community may at last be put into motion.

Other supporting comments are that it is a good scheme, site should be put to a use, it is a brownfield site, site has no aesthetic merit and Hadlow were proposing halls of residence for 2000 students.

Three letters of support from local amenity societies who use Betteshanger Country Park have also been received identifying the additional benefits of funding at Betteshanger Country Park and Mining Museum as a result of this development.

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

Background

- 1.1 In 2004 (17.08.2004) a hybrid planning application, ref: DOV/02/00905, was granted for the erection of Class B1, B2 and B8 business, industrial and warehousing units, creation of community park and country park, erection of visitor centre, construction of recreational cycling facilities and sculpture park and construction of water treatment facilities, access roundabout, roads and car parking facilities for the whole of the Betteshanger Colliery site, which includes the country park (north of the Sandwich Road and outside this application site) and the former colliery site itself (the current site area). The application was partially implemented, and the works completed included site infrastructure and highways works to both

the Country Park and former colliery site, including the construction of the roundabout junction on the A258. Other works included land profiling, planting and structural landscaping to both sites and works to the country park site for the creation of pedestrian and cycle paths and BMX track. The permission contained pre-commencement conditions specific to the infrastructure works that were all approved or discharged in 2009. Implementation of this planning permission means that a form of development on the site has been carried out. However, Reserved Matters application(s) for the business/commercial buildings were not submitted and the timescale for those submissions has now expired. Nevertheless, the application site has been enabled for development including the construction of the roundabout serving Colliers Way, access roads, all utilities, drainage, landscaping and tree planting, public footpaths, street lighting and the formation of development parcels. These works were undertaken by the South East England Development Agency (SEEDA) including decontamination and remediation, but the Masterplan for this element of the site has not been realised.

- 1.2 In July 2017 permission was granted for a new incubation building (B1, B2 and B8) with ancillary café (A3) to be located to the north east of Almond House. This was a row of three storey units sited adjacent to intercrop (to the north) that was still valid when the current planning application was submitted last year. This scheme was in the same location as the commercial units now submitted as part of the development of this site.
- 1.3 In 2018 an application for a winery building was approved on land to the south of the existing access road into the larger site and associated car parking in proximity to Almond House. This permission is still valid and could still be implemented.

Description

- 1.4 The application site is approximately 2.5 miles to the north west of Deal and 3.5 miles to the south east of Sandwich. The site lies within the parish of Northbourne and adjacent to the parish of Sholden. The site is accessed via Betteshanger Road from the roundabout junction with the A258 Sandwich Road. It forms part of the Betteshanger Sustainable Parks (BSP) development area located between Sandwich and Deal. This was the former Betteshanger Colliery which closed in 1989. The area covered by the BSP is vast and covers land on both sides of the A258 forming a total of 148ha. The Betteshanger Country Park was the spoil tip and lies to the east of the A258 and the former colliery pit head lies to the west and forms this application site. The mine shafts have been filled and capped and lie in the existing park located immediately to the south west of Almond House. The main site lies principally to the south and east of Almond House which is an existing yellow stock brick, three storey, commercial building that formed one of the original colliery buildings. The site comprises a parcel of land of 21.27ha in size that includes Betteshanger Access Road and access links through to Broad Lane.
- 1.5 The site sits within a rural setting with arable farmland surrounding the site to most boundaries and has long range views to Sandwich Road. To the north, and at a higher ground level, is the former miners housing forming Circular Road which are predominantly semi-detached. Betteshanger Road links through to Broad Lane which includes some detached dwellings and is a rural road. There are a number of agricultural/commercial structures directly to the north of the site run by Intercrop, with Almond House used as offices falling within the application site. Also, on the northern boundary is Betteshanger Social Club and associated land and an electricity sub-station. In the wider local area there are a number of small

settlements including Betteshanger, Northbourne, Finglesham and Little & Great Mongeham.

- 1.6 To the north east of the application site and extending across the existing Betteshanger Road is the Sandwich Bay to Hacklinge Marshes SSSI with the Special Protection Area and Thanet Coast to Sandwich Bay Ramsar designations further to the north east. Flood Zone 2 & 3 also cover a similar area, although the rest of the site including the developable area is in Flood Zone 1. The area is characterised by a network of drainage ditches and streams (including North Stream) interspersed with ponds and fishing lakes. Northbourne Court is Grade II listed park and garden and sited approximately 500m to the south, a former monastery used as a care home it is sited within an undulating landscape and separated by Northbourne Ridge and tree planting.
- 1.7 The site contains an existing access road (Colliers Way) off a roundabout junction on Betteshanger Road and provides existing access to the southwest of the site with footpaths and lighting and extends to an existing biomass boiler adjacent to the south west boundary. There is an existing Public Right of Way (PRoW) EE367A following the south western boundary and a further PRoW EE368 which crosses the northern part of the site from east to west, between two existing drainage ponds. Close to the southern boundary is PRoW EE369. The site is well connected to the PRoW Network. There is an existing open space corridor running across the site in a roughly north/south direction and linking with Circular Road. This space includes a children's equipped play area and a skate park with associated car parking accessed from Circular Road. Adjacent to the two drainage ponds is a sewerage treatment plant, these are to be retained and utilised.
- 1.8 Due to the infrastructure being already completed the site benefits from an existing infrastructure provision including two ponds, designed to accommodate surface water drainage from the site, and a waste water treatment plant structure adjacent. The site is fairly open land bounded by hedgerows and trees and structural landscaping throughout which is mostly to be retained. The site itself slopes from north-west to south-east before dropping away further south before rising in the distance. The character of the site reflects its intended use for employment but has been colonised by vegetation (which shall be discussed in more detail in the ecology section below). The site has been graded to form a series of development platforms with some steep embankments forming the development boundaries, which each development platforms contained within existing landscaped parcels.
- 1.9 The proposal is in outline form for the further development of this partly developed site by the erection of up to 210 residential units including 12 self-build plots. These units would be sited on the existing serviced development platforms forming four housing areas in total on either side of Colliers Way, divided by existing or replacement landscape features and the existing park. These are to be divided into different character areas including a semi-formal avenue along Colliers Way and informal lanes, centred around a community park. A further development platform to the east, adjacent to Betteshanger Road has been removed from the proposals due the higher ecological value of this part of the site. The housing will include 30% affordable units of mixed tenure.
- 1.10 A business/commercial area is proposed to the north, adjacent to Intercrop land to the north and Almond House. 2500sqm of commercial (B1) office space is proposed along with 150sqm of A1 retail, expected to be a small food/convenience store. This will be two storey in height. A large proportion of the existing woodland is to be retained, along with the central open space and wetland ponds which are

to be enlarged to provide surface water storage. Most boundary planting (trees and hedgerows) are to be retained and enhanced, although some smaller areas of landscaping within and around the development plots are to be removed, although key landscape elements are to be retained and incorporated into the development. The applicant has also proposed the enhancement of footpath links and a new bus stop on Sandwich Road to service the development which has been subject of a Road Safety Audit. In addition, land will also be provided to Betteshanger Social Club to enhance its facilities adjacent to the application site. Following further assessment and revisions 10.5 ha of land on Betteshanger Country Park will also be set aside and managed in the long term to enhance, and form compensation for, the Open Mosaic Habitat on the application site that would be lost. A further site within the district has been put forward by The Environment Bank and identified as additional compensation land for the proposed development site.

1.11 A comprehensive outline masterplan has been provided which will form the framework for a Reserved Matters application and informs the proposed character areas and sets out sustainability criteria (discussed below). The aim is to comply with Design Guides and Building For Life 12. The density of the development is to be varied with an average of 31 dwellings to the hectare. The majority of the site is expected to be 2 – 2.5 stories in height with an area of three storey dwellings adjacent to the commercial area. The total height of the commercial units are 12.5m and no development should exceed the height of Almond House.

1.12 The following documents have been submitted in support of the application a number of which have been amended and submitted during the course of the application, particularly in relation to the Ecology Appraisals and ongoing Ecological survey assessments. The initial masterplan layout has been amended to remove any development in the north east part of the main site:

- Geophysical Reports
- Betteshanger Sustainability and Energy Statement
- Outline Remediation Strategy
- Noise Assessment
- Air Quality Assessment
- Design & Access Statement
- Betteshanger Park Economic Benefits
- Betteshanger Self-Build Assessment
- Arboricultural Impact Assessment
- Updated Ecological Appraisal
- Consultation Responses
- Outline Management Plan
- Biodiversity Metric
- Flood Risk Assessment
- KCC Response Note
- OMH Management Plan
- Management Activities
- Ecology Response
- Invertebrate Survey Report full survey
- Landscape Masterplan
- Landscape Visual Impact Assessment
- Planning Statement
- Archaeological DBA and Built Heritage Assessment

- Transport Assessment
- TA Addendum
- Travel Plan
- Betteshanger Planning Balance Memo
- Summary of Ecology Matters
- Minerals Note
- Coal Mining Risk Assessment

An update on additional representations will be provided verbally to Committee Members at Committee.

2. Main Issues

2.1 The main issues for consideration are:

- Principle of Development
- Ecology and Biodiversity
- Sustainability and Climate Change
- Appropriate Assessment
- Impact on Landscape and Visual Amenity
- Highways Issues and PRoW
- Drainage and Flooding
- Heritage Assets
- Affordable Housing and Dwelling Mix
- Layout and Residential Amenity
- Development Contributions
- Other Material Considerations
- The Planning Balance & Conclusions

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 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 site is partially allocated for employment development under saved policy AS1 and the CS, therefore some development of this site is justified by other development plan policies. The relevance of policy AS1 is discussed further below. However, parts of the site outside the allocation could be considered partially contrary to policy DM1, as the site is outside the settlement confines.

2.4 DM11 seeks to resist development outside the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. Although the site is outside the settlement confines, they are nearby and part of the site is allocated for development in the CS (policy AS1), it has good footpath and cycle links and includes proposals to enhance bus facilities. On this basis it

is considered that the occupants of the development would be able to access necessary day to day facilities and services. As such, whilst technically contrary to Policy DM11, the location of the site is considered to foster a sustainable pattern of development, which is the overarching intention of Policy DM11, as set out in the paragraphs which precede the policy. The allocation of part of the site also adds further support to development on this site.

- 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. It is considered that the development would have only a limited long term impact on the adjoining character and appearance of the countryside which is mostly mitigated by the existing and retained landscaping, with a detailed justification of this position discussed in more detail below. It is also DDC's position that the site is partially developed by virtue of the works undertaken by SEEDA and is separate from the surrounding countryside. Therefore, the proposal does not result in the loss of countryside, being the first part of Policy DM15 and limited harm is caused by the proposed development, the second part of the policy. Policy DM15 therefore only has limited weight in this case.
- 2.6 However, notwithstanding the primacy of the development plan, paragraph 11(d) 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 (75% or less), 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 assessment on 19th January 2021, the Council is currently able to demonstrate a five-year housing land supply (HLS) of 5.39 years and the Council have not 'failed' the Housing Delivery Test (80%). This includes a 20% buffer, as required by the housing delivery test (HDT). In line with paragraph 73 of the NPPF we will be updating our position from 1st April 2021, applying the 20% buffer.
- 2.8 As Members are aware, 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 596 dwellings per annum. As a matter of judgement, it is considered that the evidence base underlying Policy DM1 is out-of-date and the blanket ban on development outside the defined urban confines is inconsistent with the NPPF which focusses on protecting important elements of the countryside, where they are present, and not all countryside. Moreover, paragraphs 77 and 78 of the NPPF on rural housing provide no support for a blanket prohibition on the provision of housing in the countryside, especially on sites close to or adjoining existing settlements. As such, the policy should carry only limited weight. While Policy DM11 broadly accords with the NPPF's aim to actively manage patterns of growth to support the promotion of sustainable transport, the blanket approach to restrict travel generating development outside of settlement confines is inconsistent with the NPPF. The policy is partially out-of-date and should therefore be afforded limited weight. Policy DM15 seeks to resist

development that would result in the loss of, or adversely affect the character or appearance of the countryside. This is broadly consistent with the NPPF, although the objective to refuse development resulting in the loss of countryside is inconsistent with the NPPF as explained above. Parts of policy DM15 therefore are not up-to-date and it's considered therefore that the policy should be afforded less than full weight. Given how important Policy DM1 is and, in view of the tension between policies DM11 and DM15 and the NPPF, it is considered that the 'basket of policies' which are most important for determining applications are out-of-date and should not be given full weight.

- 2.9 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.
- 2.10 The application must be assessed against paragraph 11 of the NPPF which directs that 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 or where specific policies in the NPPF indicate that development should be restricted.
- 2.11 In addition, it is also necessary to consider Saved Policy AS1 (2002) which was saved from the 2002 Local Plan following the adoption of the CS in 2010 and is still a material consideration of some weight. Saved Policy AS1 partially allocated the former pithead site for employment uses as envisaged as part of the original SEEDA Masterplan and the outline/hybrid planning permission (DOV/02/00905) granted in 2004. This employment allocation therefore remains. The 02 permission included the total land holding forming Betteshanger Sustainable Park and a number of components of this permission have been implemented. The Betteshanger Country Park opened in May 2007 and the main road infrastructure, including strategic landscaping, utilities and drainage were also constructed at around this time. Many overlapping conditions relating to the whole of the site (relating to ground investigations, ecology and archaeological surveys etc) were also discharged at the time. The Reserved Matters applications relating to the proposed employment buildings was however not submitted.
- 2.12 The hybrid/outline planning permission by SEEDA related to the whole of Betteshanger Sustainable Park (colliery/pit head and the spoil tip, now Betteshanger Country Park) and approved land beyond the policy AS1 allocated area, as part of a comprehensive land use approach to the whole colliery site. This past approval therefore also remains a significant material consideration and it is relevant that the application site was identified as a location for employment as part of a masterplan. The construction of the road and drainage infrastructure (including the roundabout on the A256), provision of strategic landscaping, formation of development platforms and the configuration of the estate roads, effectively partially implemented this hybrid permission and has caused some confusion regarding the planning status of the land. However, the outline permission is not extant, as this permission cannot be further implemented. Nevertheless, the previously implemented employment planning permission and existing allocation are a material consideration and identify that development of the site has been envisaged for a significant period of time with substantial investment and enabling works having taken place on both parts of the site.

- 2.13 More recently, planning permission was granted for the erection of a detached incubation building (Classes B1, B2 & B8 with a floorspace of 2,475sqm and ancillary café) which was located to the north of the application site, adjacent to Intercrop (this has now expired). A further planning permission is also still extant for a winery building adjacent to Colliers Way. The site has therefore been identified as a regeneration area and a major commercial site/employment allocation in both the 2002 Local Plan and 2010 Core Strategy. The application site itself, forms part of the wider pit head regeneration/sustainable park site promoted by SEEDA.
- 2.14 Notwithstanding the substantial initial investment, the commercial development envisaged in the Local Plan under policy AS1 (and the CS strategic employment policy DM2) has not materialised over the past 20 years, paragraphs 120 & 121 of the NPPF set out the need to adapt and respond to changing demand for development. Accordingly, there is a policy requirement to consider; a) whether there is any reasonable prospect of the land coming forward as envisaged by the allocation, and if the authority is satisfied that there is not, b) support the application for alternative uses, if the authority is satisfied that the proposals contribute to meeting an unmet need for development in the area.
- 2.15 Furthermore, the Economic Development Needs Assessment (2017) identified an oversupply of employment land in the District and that the application site lies in a poor location for major employment development, concluding that it would be difficult to attract strong demand and viable B class development opportunities at the site. The land has been awaiting development for over 20 years, despite being available and positively encouraged for economic development throughout this period. There is clearly little or no prospect of the land coming forward in accordance with the allocation. This evidence further supports the need to find an alternative use as required under para's. 120 and 121 of the NPPF and the report was also commissioned to inform the Local Plan Review. There is, however, a continuing need for additional housing sites in the district going forward (as set out in the Draft Local Plan Review).
- 2.16 As a result of the above, the Local Plan Review process considered the site in its HELAA process to inform the Local Plan. This identified the site as suitable and available for housing development (up to 250 dwellings) including the potential for an element of employment uses and self-build dwellings. The key issues identified at that stage were highway impacts and potential capacity issues, along with potential drainage issues, including the impact on the designated wetlands to the northeast.
- 2.17 Following the HELAA process this planning application was submitted for consideration to include up to 210 dwellings, 12 self-build plots, commercial office floorspace of up to 2,500 sqm (in the same location as the previous permission) and up to 150 sqm of retail floorspace to support employment.
- 2.18 More recently the Local Plan Review Consultation Draft (Reg 18) was published and includes this site as a proposed allocation for up to 250 dwellings, employment and associated uses, subject to further consideration of a number of issues that are all set out in detail in this report. The Local Plan Review process, however, is not at a stage of sufficient weight to overrule the key considerations of Paragraph 11 of the NPPF, which still takes precedence in the consideration of this planning application.
- 2.19 There is also the need to consider the status of the land, i.e. whether it is

undeveloped, previously developed (or brownfield) land or developed land for the purposes of planning. This has been a matter of detailed consideration and is important in relation to how planning policies and the NPPF should be applied and the weight to be afforded. The applicant's view has set out that the site is developed, in that it was a previously developed site when the coal mining use ceased, but as a result of the enabling works undertaken by SEEDA, the site has been developed to form development parcels and all infrastructure works as approved under the outline planning application. These proposals were all lawful and therefore this is a developed site and does not form part of the countryside.

- 2.20 DDC's view on the status of the land largely accords with that put forward by the developer. The site was previously a minerals extraction site, which was then remediated. When remediated the site ceased to come within the scope of the definition of previously developed land. However, new development was then undertaken on the site, in line with the outline planning permission. Therefore, the conclusion is that the site is now partially developed, has not blended back into the landscape and it does not form countryside. The NPPF, however, directs that the principle of development on this site is appropriate in that it seeks a more efficient use of developed sites or directs development towards previously developed land in the first instance.
- 2.21 In conclusion, and on balance, it is considered that, the development plan, taken as a whole, indicates that development should be permitted as the site has no formal landscape or other designations and some of the most relevant DP policies are out of date. The site is not categorised as countryside and is, in part, developed land. The site has been demonstrated to not be suitable for employment uses and an oversupply of such land use has been identified in the district that enables this site to come forward for other uses. There is a clear need for additional housing in the district to 2040. Permission should therefore be granted, in line with Paragraph 11 of the NPPF, unless there is any clear harm that would significantly and demonstrably outweigh the benefits of additional housing development in the district. A residential use is an acceptable form of development, in principle, for this site and it meets the overarching objectives of the framework, set out in the NPPF. Nevertheless, there are a wide number of key and other material considerations that all need to be considered as a whole and weighed in the planning balance, even though the principle of development on this site has been established previously.

Ecology and Biodiversity

- 2.22 It is necessary before commenting on the detailed ecology considerations to address the concerns identified in respect of the EIA process and the screening process which concluded that an EIA was not required for this development. This was set out in the formal Screening Opinion under DOV/20/00120 where the full document is publicly available. In summary, whether a proposed development requires an EIA to be undertaken and an ES submitted with the planning application depends on a wide number of criteria and consideration of thresholds identified by legislation. The proposed development falls within Schedule 2 of the EIA Regulations (2015) (as amended) but does not exceed the thresholds set out in the legislation, regulations and guidance and was also assessed under Schedule 3 in terms of its significant effects. This screening process identified that an EIA was not required.
- 2.23 The position in respect of ecology and biodiversity on the site has been the subject of significant discussion since the submission of the application and has evolved

and been updated throughout the course of the application and is still ongoing. It is unfortunate that the application was not submitted with a fully comprehensive package of ecological surveys and mitigation, but this has to an extent been addressed in the revisions and additional survey work provided in support of the application. It is also expected to continue to be an ongoing and evolving package of measures to be controlled through planning conditions and the s106 legal agreement should planning permission ultimately be granted. At present, it is the case that there are differing opinions between the experts on the proposed approach to the protection and long-term management of the specific and important species and habitats, in terms of the impacts on site and mitigation and compensation off site. Most of the discussions with the applicants have focussed on the ecology issues and these would continue, with a further report to the Planning Committee, if Members were minded to accept the recommendation in this report.

2.24 It is not possible within the scope of this committee report to deal with all the individual impacts and detailed considerations on all the different species, habitats, flora and fauna that have been identified and raised during the course of considering the application. The advice that has been received has taken into account best practice derived from numerous sources. For these reasons, I have included some of the specialist organisations' objections in the representation section above, in more detail than would normally be expected, to provide a full summary of the ecological concerns and specific issues that have been raised. It is important to note that the following ecological and biodiversity section is a summary of the key issues and the mitigation and compensation proposals that have been put forward for the whole site, rather than a discussion of all the individual species, flora and fauna that are all important in their own right and all have their own part to play within the wider discussion of biodiversity and ecosystems. This is not to diminish their role, but the scope of the detailed and technical issues surrounding each species or plant cannot be dealt with in all its respects within this report.

2.25 The application was initially submitted with a Phase 1 Ecological survey of the site, which was identified as being insufficient to deal with the different ecological considerations on this site. The applicants therefore commissioned a number of more specialist surveys including flora and invertebrate surveys to be undertaken (see schedule above). This was assisted by a number of third-party ecologists and specialists undertaking their own surveys and submitted representations accordingly. It is clear that the application site is being used by a wide range of protected species, birds, invertebrates, and flora and fauna, is in certain respects unique and of high importance at both a county and national level, due to being rare, endangered, or threatened. The development site has also been identified as containing a number of Priority Habitats including – Open Mosaic Habitat (OMH) and Deciduous Woodland. Not least the site is being used by:

- 4 pairs of breeding Turtle Doves, a priority and threatened species
- Invertebrates - An endangered spider (nationally rare and near threatened) and a rare ground bug
- Grass-poly – nationally rare, a priority species and protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended)
- Lizard Orchids - nationally rare, a priority species and protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended)
- Pennyroyal - nationally rare, a priority species and protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended)

- 6 species groups of bats (Common Pipistrelle, Soprano Pipistrelle, Nathusius' Pipistrelle, Myotis sp., Nyctalus/Eptesicus sp. and Brown Long-eared)
- Badgers - 2 main setts recorded within the woodlands in the south-western and north-eastern parts of the site
- Great Crested Newt - in small pond located centrally within the site
- Reptiles – low populations of reptiles, one adult Common Lizard and two adult Slow-worms
- Birds – an assemblage of birds has been recorded with other priority species including Cuckoo, Starling, Song Thrush, Bullfinch and Linnet.

2.26 All of the above species and flora, as well as a number of others, are protected by national and international law under the following legislation and species priority lists.

- The Wildlife and Countryside Act 1981 (as amended) and listed as Schedule 8 species, requiring protection under this legislation. Mammals have legal protection under this legislation.
- Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places duties on public bodies to have regard to the conservation of biodiversity in the exercise of their normal functions. It publishes a list of habitats under Section 41 which are of principal importance for conservation in England, 'Priority Habitats'. Priority Habitats identified on the site include: 'Open Mosaic Habitats on Previously Developed Land' (OMH) - comprising the development platforms proposed for development, also 'Hedgerows', 'Deciduous Woodland', 'Ponds', 'Reedbeds' and 'Lowland Fen'.
- There is also a national list – England Red List (2014) and IUCN Red List of Threatened Species, 2001. These list species of ecological significance that are vulnerable or threatened. There is also a list of plants in the Kent Rare Plant Register. Further, specialist organisations such as Kent Wildlife Trust (KWT) hold their own lists of species requiring specific protection.

2.27 Planning Policy is considered in the NPPF in Paragraphs 170 – 177, with the key paragraphs set out above. Further guidance is set out in the National Environment Planning Policy Guidance (amended 2019). The current Core Strategy does not have any specific policies for ecology and biodiversity, however, Policy CP7-Green Infrastructure Network is most relevant.

2.28 **In summary, the NPPF paragraphs 170 and 175 are considered to be the key tests for planning to consider.**

Paragraph 170(d) – *minimising impacts on and providing net gains for biodiversity, including coherent ecological networks that are more resilient to current and future pressures.*

Paragraph 175 – *When determining planning applications LPA's should apply the following principles: (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; (c) development resulting in the loss or deterioration of irreplaceable habitats*

... should be refused, unless there are wholly exceptional reasons and a compensational strategy exists.

Therefore Paragraph 175 (a) identifies the determinative issue to resolve i.e. is the biodiversity harm adequately mitigated, or can it be compensated for?

2.29 In response to the many and highly informed ecology/biodiversity objections, including a number of recognised ecology organisations and statutory consultees, revised and updated ecology documents and assessments were submitted by the applicant on a number of occasions with amendments made to the proposed scheme. Amendments to the ecology position on the site can be summarised as follows:

- The originally proposed eastern development area of the site was omitted to enable retention of woodland habitat for the 3 pairs of Turtle Doves. A revised layout has been provided that identifies that Woodland W1 and adjacent land is now fully retained. This will minimise loss of existing nesting habitat within the site and retain 3 breeding pairs of Turtle Doves on site. (This eastern area of the site also includes or is in close proximity to the Schedule 8 Lizard Orchids.)
- The existing Woodland (W4) to the southeast of the site is now to be fully retained as existing, instead of being reduced in size.
- Existing habitats that do not form the development parcels are to be retained and enhanced on site.
- An outline compensation scheme to provide additional and enhanced OMH on Betteshanger Country Park (BCP) and provision of suitable land for Turtle Doves.
- Measures for translocation of plants to BCP and other parts of the application site.
- Use of The Environment Bank to provide additional OMH on another site within the district but not specified.
- A commitment by the applicants to provide on-site and off-site habitat provision on BCP to provide a 10% biodiversity net gain.

2.30 These ecology and biodiversity measures could potentially be secured through planning conditions or through the s106 legal agreement. The mammals, bats and reptiles on site can be addressed through well recognised, legislated and established practices for retention and protection on site or translocation in respect of the reptiles. However, the loss of OMH on site and whether it can be fully replicated off-site (for example the Poly Grass), the protection of flora and invertebrates identified on the site and the protection of bird species, in particular Turtle Doves and their foraging areas on site, remain a matter of concern. In addition, there remains a divergence of opinion as to the quality of the OMH both on the application site and off-site on BCP and thus the efficacy, or desirability, of the suggested compensation. Furthermore, there is also a disagreement as to whether a biodiversity net gain is being provided off-site and therefore whether a sufficient level of biodiversity net gain can be achieved. These matters have yet to be fully clarified by the applicants in their submissions, however, the applicants have submitted an outline mitigation and compensation package that identifies a potential biodiversity net gain, with the extent of net gain increasing over the course of the application. It is also of note that the 10% requirement for biodiversity net gain and the use of the biodiversity metric has still not been confirmed by government in legislation, with The Environment Bill still awaiting debate in Parliament. Its significance is widely known and some of its measures are already

being used in practice, nevertheless, it does not currently form government policy or law.

2.31 The proposed compensation land identified by the applicants at BCP to provide additional OMH land, a 10% increase in biodiversity net gain and suitable habitat for Turtle Doves also raises a number of concerns, due to a large part of the site already qualifying as OMH. The quality of this habitat is still a matter of a difference of opinion between the applicant and other parties, along with Lizard Orchids found in large parts of the site identified. The outline compensation scheme sets out that parts of this site will be scrapped, potentially removing existing OMH and protected Lizard Orchids. DDC's Snr Natural Environment Officer has identified a more suitable area of BCP for the compensation measures, but the applicants have only included part of this land, in addition to the OMH land already identified. Consequently, there are concerns that the identified compensation land is not appropriate and could potentially result in a further loss of existing habitats, biodiversity and protected species. Clarity and assurances on these matters are still outstanding from the applicants and the position is not at a sufficient stage to ensure ecology and biodiversity can be fully secured in line with best practice and policy. These concerns, along with those set out in the table below, remain an important material factor for consideration and whether the mitigation and compensation measures are appropriate and fully comply with Paragraph 175 (a) of NPPF.

2.32 The following table identifies a number of species-specific and ecology concerns that have not at this stage been adequately resolved in order to address the concerns that have been raised, including those of DDC's Snr Natural Environment Officer, and includes concerns with the mitigation and compensation measures being put forward under this application.

Species/Habitat/DDC issues	Mitigation and/or Compensation Proposed by applicants (with their comments)	Key Concerns/Outstanding Matters
<p><u>Turtle Doves</u> 4 pairs of breeding - priority species - 3 breeding pairs & core territory area associated with the 3 pairs within the eastern part of the site is retained.</p> <p>4th breeding pair, tree used for nesting to be removed and lost</p> <p>How is loss of foraging area on development platforms to be addressed, how ensure retained on site or relocated to BCP</p>	<p>Compensatory habitat to be provided within BCP. A minimum habitat area of 3.83ha plus supplementary feeding is proposed to compensate for loss of one territory and impacts on other pairs. Mitigation will be secured by S106, to be informed by further survey work and approved in consultation with the RSPB. This will also set out ongoing monitoring, with the intention that this is overseen by the RSPB.</p>	<p>What happens to the 4th pair of breeding doves, tree is still identified for removal? What mitigation to address the loss?</p> <p>Foraging land on development parcels removed, where will the doves feed? How will their protection be secured?</p> <p>No detailed mitigation scheme at this stage and no timescales identified. Suitable land will take time to establish, what if this isn't successful?</p> <p>Up to date evidence of BCP being used by Turtle Doves required to establish baseline.</p>

<p>Invertebrates - An endangered <u>spider</u> (nationally rare and near threatened) and a rare <u>ground bug</u> - The main areas of bare and recolonising ground forming the development platforms are considered to be of value for invertebrate species associated with open vegetation, with a number of species of conservation interest recorded.</p>	<p>The S106 will secure delivery of OMH provision to achieve a 10% net gain in biodiversity, ensuring appropriate compensation for habitat losses. New habitat opportunities will be provided, allowing for colonisation by invertebrate species. This will be assisted by translocation of substrate and vegetation turves from the site to new OMH areas.</p>	<p>How will these species be ensured protection?</p> <p>No detailed strategy set out in the outline mitigation proposal, need more certainty and specific measures.</p> <p>Protection to be secured via ongoing management and monitoring of new OMH areas under the S106. Areas of highest diversity for invertebrates have been stated to be retained under the proposals but this is unclear where the areas have been identified.</p>
<p><u>Grass-poly</u> – nationally rare, a priority species and protected under Schedule 8 of the WCA 1981 Located on development platforms</p>	<p>Translocation over 2 seasons to onsite receptor areas (with additional offsite receptor to also be investigated).</p> <p>Seed collection would allow for planting of species in subsequent years if initial translocation unsuccessful</p>	<p>What happens if translocation isn't successful? Translocation should continue until established off-site and on-site.</p> <p>How will on-site measures be protected?</p> <p>Off-site receptor needs to be identified and set out in proposals.</p> <p>No evidence that translocation would be successful, what happens if this occurs?</p>
<p><u>Lizard Orchids</u> - nationally rare, a priority species and protected under Schedule 8 of the WCA 1981</p> <p>Identified on application site and also on Betteshanger Country Park (BCP) compensation area</p>	<p>Third party records have been provided as evidence at the eastern part of the site.</p> <p>No evidence of this species has been recorded within the site by applicant - absence of Lizard Orchid on site confirmed by BSBI records. As such, Lizard Orchids would not be impacted by the development.</p> <p>The BCP proposals seek to maintain suitable habitat conditions for Lizard Orchid, and</p>	<p>Protection measures on site could still be identified as sites are outside of development platforms. Are all these areas to be protected? How?</p> <p>BCP– how will these measures ensure protection? How monitored and managed? What safeguards in place?</p> <p>No detailed mitigation measures have been identified at this stage.</p>

	<p>management activities informed by ongoing surveys to mark out Lizard Orchid locations so these can be avoided during scrape creation. Protection to be secured via ongoing management and monitoring of new OMH areas under the S106.</p>	
<p><u>Pennyroyal</u> - nationally rare, a priority species and protected under Schedule 8 of the WCA 1981</p>	<p>Recorded locations of Pennyroyal lie outside of proposed works areas (including enlargement of existing drainage ponds) such that it would not be impacted by the development proposals.</p> <p>Onsite management will seek to maintain existing habitat for this species.</p>	<p>No specific details of protection and management to ensure not impacted have been provided.</p> <p>Translocation could also be considered, as per Grass -Poly to increase biodiversity.</p>
<p><u>Discussions with the applicant have also included consideration of bringing in expert assistance in ecology matters</u></p> <p>Inclusion of a recognised ecological body to oversee and manage the ecological aspects of the proposal on and off-site including compensation scheme</p>	<p>During consultation discussions, both KWT and RSPB have indicated a willingness to be involved with ongoing management and monitoring of compensatory habitat if the scheme were to be consented. The mitigation scheme to be secured under S106 and agreed with the LPA and relevant consultees will detail ongoing management and monitoring arrangements, allowing for the land to be handed over to a recognised ecological body, or for works to be overseen by such a body through an agreed monitoring programme.</p>	<p>No detail of this is provided in the outline mitigation, compensation and management plans, to allow a sufficient degree of certainty that this can be secured.</p>

- 2.33 The applicants have put forward a number of supporting arguments and a supporting case for the ecological proposals, which identifies:

“The biodiversity metric does not consider or reflect the ecological benefits of the compensatory land being subject of an ecological management plan to secure its long-term ecological value. This is a significant benefit of the approach proposed given the potential for OMH interest to be lost through the natural process of succession, or through potential changes to the land use and operations of Betteshanger Country Park. As part of the enhanced compensation package, an enhanced area of OMH is proposed within Betteshanger Country Park amounting to some 10Ha of land. The area utilises some of the area identified by the Natural Environment Officer, in addition to the 8Ha previously proposed, however currently avoids conflicting with existing uses.”

- 2.34 The suitability of the identified compensatory area of OMH has been questioned, as set out above. Whilst the identified compensation area is acknowledged to currently support OMH, in the absence of active management this is being impacted by natural succession and over time will be colonised with different species and the OMH will be lost. OMH is defined by early successional plants that colonise bare (often remediated ground), which is partly why is it a priority habitat, as sites become colonised by other plants or developed over time. The application site and OMH at BCP will therefore be lost over time and neither is currently the subject of a management plan. It's long term management and protection is therefore capable of qualitative ecological enhancement through the implementation of the management plan. As such, the securing of a management plan for existing areas of OMH within the Country Park is a significant benefit being put forward by the applicant that should be given significant weight in decision-making and as a valuable component of the mitigation and compensation strategy being proposed.
- 2.35 The objections raised by DDC Natural Environment Officer, KWT and RSPB have all shaped the proposals, in the applicant's view, resulting in a package of ecological mitigation and compensatory measures at both the application site and Betteshanger Country Park. The applicants have stated that *“the proposed measures would deliver compensatory habitat managed in the long-term at a ratio of 2:1 relative to the qualifying habitat to be lost through the development proposed and a proposal which would deliver biodiversity net gain. The compensatory habitat proposed and secured by the proposal sits alongside on-site mitigation measures including ecological enhancements and safeguards. The result is that this application represents an opportunity to secure biodiversity net gain through a comprehensive package of ecological mitigation and compensation, in accordance with national planning policy and the mitigation hierarchy, which has evolved to respond to the objections received and fully reflects the floral and faunal interest of the site.”* The conclusions being that the approach and biodiversity net gain delivered is consistent with NPPF policy and addresses the ecology objections raised.
- 2.36 However, following an in-depth and detailed assessment of the proposed mitigation and compensation measures, the applicants have not provided the level of clarity and certainty at this stage for Officers to confirm that ecology matters, as set out above, have been satisfactorily addressed, or have sufficiently demonstrated that the legislative requirements have been fully addressed in all respects. DDC's Snr Natural Environment Officer has clearly set out the concerns regarding the measures identified and any unresolved matters need to be addressed to an acceptable level to provide sufficient certainty that the harm to

ecology and biodiversity has been suitably mitigated or compensated as required under paragraph 175 of the NPPF, prior to a formal decision being issued. More detail and clarity is therefore required on a number of issues, to be addressed under this application and then controlled more specifically through conditions and the s106. Members are therefore requested to resolve that they are minded to approve the application, subject to these matters being suitably addressed and a further committee report on ecology matters to follow.

- 2.37 For clarity, a number of measures are appropriate at this stage and can be secured to address the impact on a number of protected species. These include Badgers, with 2 setts on site that are both located within woodlands and outside development areas and are to be retained. Measures for their protection and safety are well established and can be implemented. Additionally, measures to relocate and protect Great Crested Newts (1 identified) and reptiles (1 common lizard and 2 slow worms) are well established and can be satisfactorily controlled with only low numbers recorded having previously been relocated during remediation works. In respect of birds using and nesting on site (including an assemblage of birds that includes Cuckoo, Starling, Song Thrush, Bullfinch and Linnet), safeguards can be put in place which could include additional surveys if construction work is undertaken during the bird breeding season, but working outside of the bird nesting season is recommended and can be controlled through conditions. Furthermore, approximately 90% of the trees on site are to be retained (along with all existing landscaped areas) which retains nesting and feeding areas. This, along with new habitat provision and management both on-site and off-site, will maintain opportunities for other bird species (but potentially not Turtle Doves), together with provision of nest boxes on trees and new buildings.
- 2.38 In terms of the existing trees on site, the deciduous woodlands on site are a UK priority habitat that has been assessed by the applicants and DDC's Tree Officer. W1, W3 and W4 are being retained and enhanced through appropriate management and enhanced biodiversity measures. These include small scale thinning and coppicing of trees, particularly at woodland margins to create a diverse edge habitat and maintain light levels for ground flora, and supplementary planting to increase species diversity. Furthermore, the impact on trees to be retained and the necessary protection measures, including root protection zones can also be controlled by conditions. Woodland W2 is to be lost and includes trees G29 and G30, which are considered to be of amenity value by the Tree Officer and is also the location of the breeding pair of Turtle Doves. Discussions have been ongoing with the applicants to try to secure the retention of these 2 trees into the proposed scheme, however, the applicants have maintained the position that these need to be removed. Nevertheless, the option of serving a TPO on these 2 trees is available and is still being considered at the time of writing. A recent technical note has been provided by the applicants updating the position in respect of trees and hedges on the site and it may be possible to retain some of the internal hedgerow although no specific details have been provided at this stage but this could be secured by condition. The proposed layout does, however, allow additional hedge and tree planting to provide enhanced landscaped areas where new trees can be planted. New planting would also need to consist of a mix of native species which could be controlled by suitable conditions. Any updates on the serving of a TPO will be reported to Members at Planning Committee.
- 2.39 The existing drainage ponds on site will be retained, enlarged and enhanced that provides a further opportunity to enhance biodiversity and ecology on the site. No objection has been raised in this regard, but priority species have been identified

in close proximity by third parties. This, as set out above, could be further addressed and can be set out in the ecology report to follow.

- 2.40 In conclusion, ecology on the application site is a key material consideration and there are clear areas identified where sufficient answers to the questions raised have not, at this stage, been adequately provided by the applicants. It cannot therefore be confirmed that the proposed compensation and mitigation measures are satisfactory. There are still outstanding questions regarding full compliance with the aims and objectives in the NPPF and paragraphs 170 and 175. Members are therefore asked to indicate that they accept the principle of residential development on this site, to provide some confidence for the developer to take the mitigation and compensation measures forward and provide the level of security and detail necessary to enable a formal decision to be forthcoming, following an additional ecology report to Members in due course.

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

- 2.41 The application site is partially sited within (extends across the existing access road, Betteshanger Road, off the A256) the SSSI and is in close proximity to the Ramsar and SPA designations, as well as within the water drainage environment that partially informs these designations and their special character. It was therefore necessary to undertake an Appropriate Assessment (AA) in accordance with the Habitat Regulations as the determining authority. This was a detailed consideration of the impact the proposed development could have on the special ecological characteristics of these important designations. The AA assessment is provided in full on the planning file and concluded that DDC is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England have advised that they concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission, as set out below.
- 2.42 The individual impacts of the development are all considered and assessed in this report. It is also necessary to consider the specific likely significant effects on a European Site in terms of 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 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 previous consultations 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.

- 2.45 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 element of the appropriate assessment and concludes the assessment is sound.
- 2.46 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 £12,381.39 is therefore sought to this effect and has been included in the draft s106 agreement.

Sustainability, Climate Change and Air Quality

- 2.47 This section encompasses a wide range of issues and it is intended to cover the key issues most relevant to this proposal and as raised by objections to the development, although a number of these aspects will be considered under different sections of this report and will be concluded in the Planning Balance section at the end of this report.
- 2.48 Paragraph 38 of the NPPF advises authorities to approach decisions in a positive and creative way, and to work with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Paragraph 8 highlights that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, so that opportunities can be taken to secure net gains across each of the different objectives. Paragraph 8 presents the three objectives as follows:
- “a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”
- 2.49 Whilst the three objectives are interdependent, it is important that development takes local circumstances into account, to reflect the character, needs and

opportunities of each area and the proposal strives to achieve regeneration that is economically, socially and environmentally advantageous to the area and comprehensively responds in striking the appropriate balance.

- 2.50 It terms of the economic objective the provision of housing is a key consideration. Additionally, employment floorspace and a small retail unit are to be provided, which add the provision and economic case for the proposal. The socio-economic case also identifies that funds from this development will be used towards the completion of the mining museum and the completion of visitor facilities at Betteshanger Country Park for adding to the case. 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. The applicant has also advised that the development would create direct and indirect jobs during the construction phase of the development and the employment uses will directly increase jobs in the area. The employment which could be generated by the development therefore adds further weight in favour of the development. In terms of paragraph 8 this proposal would add to the economy, growth, innovation and the provision of infrastructure.
- 2.51 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. The enhanced provision of open space facilities, cycle and footpath improvements, along with contributions towards the required facilities also adds to the social role. In respect of paragraph 8 the proposal would add support to existing communities, fostering a well-designed environment to support communities, social and cultural well-being.
- 2.52 Turning to the environmental role, the proposed development can mitigate the visual impact on the landscape with a large proportion of the on-site landscaping to be retained and enhanced on site. A proposed ecology mitigation and compensation scheme has been provided that can be controlled by conditions and the s106 agreement to ensure the ecological and biodiversity enhancements, as required by the paragraphs 170 and 175 of the NPPF are provided accordingly. Turning to paragraph 8, the site is making effective use of previously developed land, has made a case for biodiversity and is to include a number of measures, to be discussed below, to reduce pollution mitigate and adapt to climate change.
- 5.53 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 of the application, notwithstanding the ecological concerns. 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.
- 2.54 Turning to the issue of climate change, this consideration encompasses a wide range of issues with the intention of minimising the impact on the environment not just now, but in the future. It is a concept that has been at the heart of the planning system for a significant period of time and is enshrined in planning policies and the NPPF. Of most relevance are paragraphs 8 and 148 – 150 of the NPPF, that

set out the key planning requirements. The next paragraphs in the report set out how the proposal has sought to address these issues.

- 2.55 In terms of DDC's recent adoption of the Climate Change Strategy, this is not a development plan document and has not been adopted for planning purposes. Although of relevance, it has limited weight in the process. Nevertheless, these principles and aims are already included within the planning system and set out in planning documents including the NPPF and a therefore material planning consideration.
- 2.56 Energy efficiency and sustainable features of the proposal, that address the above climate change concerns, have been set out in the submission of a Sustainability and Energy Statement and BREEAM assessment for non-domestic buildings. These documents set out the key features to be incorporated into the proposals. In terms of BREEAM the non-domestic buildings are expected to meet the Very Good rating, in line with Policy CP5 of the CS. Domestic buildings are expected to meet Part L of the Building Regulations with an aim to provide 30% reduction in CO2 emissions (the current requirement is 19% but is expected to be increased to 30% in the near future). Code for Sustainable Homes is no longer applicable but the energy savings and use of sustainable features throughout the development are being proposed. These include:
- Measures to reduce water consumption
 - Use of grey water and rainwater harvesting
 - Use of passive design features and minimising overshadowing and use of solar gain
 - High insulation and thermal mass
 - High air tightness in the building envelope
 - Energy efficiency fittings throughout
 - Use of air source heat pumps and no use of gas heating
 - Roof mounted PV solar arrays
 - Electric vehicle charging points for all dwellings and 10% of unallocated spaces
 - Further consideration of a communal battery storage infrastructure to feedback to the grid and reduce demand at peak times
- 2.57 The incorporation of these features proposed, go above current building regulation standards, that are the key mechanism for energy efficiency provision and are to be encouraged as they assist with adaption for climate change. These documents will also form part of the approved document list attached to any outline application. With the expected provision of these features at outline stage and planning conditions relating to BREEAM and provision of EVC charging points, the proposals have made efforts to address energy efficiency and the use of sustainable features throughout the proposals. The reserved matters application would also have the opportunity to consider these matters further. It is considered that these measures, along with the other sustainable elements of proposal, are comprehensive and adequately address the concerns expressed regarding climate change and the sustainability of the proposed development.
- 2.58 An Air Quality Assessment has been submitted with the application and updated accordingly to take into account background evidence for the Local Plan Review. This identifies that there will be no significant impact on air quality during construction or the operational phase of development. Current traffic data has been assessed and the results of predicated concentrations of relevant pollutants

are below the relevant objectives set out in the Air Quality Management Guide for all nearby sensitive receptors. In accordance with the Kent and Medway Air Quality Partnership the impact of the emissions arising from traffic associated with the operation of the proposed development is considered to be low/imperceptible. Traffic generated by the development is also predicted to have an insignificant impact on N-deposition rates and airborne concentrations within the Thanet Coast & Sandwich Bay Ramsar Site and Sandwich Bay to Hacklinge Marshes SSSI. It concludes that air quality does not pose a constraint to the proposed development.

2.59 DDC Environment Health have confirmed that the conclusions in the submitted and updated reports are accepted and no further consideration of the impact on local air quality levels is necessary for this application (this includes further consideration since the publication of the Draft Local Plan Review and the associated evidence base). Furthermore, an Emissions Mitigation Assessment is presented, including an emissions mitigation calculation in accordance with the advice in the Kent and Medway Air Quality Planning Guidance. In respect of additional vehicle movements from the development, the Emissions Mitigation Calculation suggests a damage cost of £163,928.34. However, the following mitigation measures are already to be included within the proposed development:

- PV and associated low carbon technology
- 1 Electric Vehicle charging point per dwelling or 1 charging point per 10 spaces (unallocated parking); and
- Travel Plan including mechanisms for discouraging high emission vehicle use and encouraging the uptake of low emission fuels and technologies.

2.60 The cost of implementing the above mitigation measures will therefore exceed the damage cost figure by a significant margin. The implementation of the above mitigation measures should further reduce the impact of emissions during the operation of the proposed development. In view of the above, DDC E/H recommend these proposed measures are secured by way of condition. As well as a condition requiring a site-specific Construction Management Plan that includes the mitigation measures identified. Provided this is implemented the Environmental Protection Team have no further observations in terms of air quality impact of this development.

2.61 It is also noted that the report also examines nitrogen deposition on nearby sites and concludes that traffic generated by the proposed development is predicted to have an insignificant impact on N-deposition rates and airborne NOx concentrations within the Ramsar Site and SSSI. The deposition rates are compared to data presented on the APIS website which gives the current N-deposition rate within the SSSI of 16.2 kgN/ha/yr. The conclusion that there is insignificant impact on ecological sites is therefore robust.

2.62 These measures and others discussed in different sections of the report, all point towards a total package of measures that address the different elements set out in paragraph 8 of the NPPF and as a whole identify the sustainability of the proposed development. Planning conditions to address these concerns are included in the proposed recommendation. As a whole, the application is therefore a sustainable form of development as identified in the NPPF.

Impact on the Landscape and Visual Amenity

- 2.63 In terms of the impact on the wider landscape and visual amenity 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. As set out above the site is not considered to form part of the countryside and therefore it is DM16 that is most relevant.
- 2.64 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.
- 2.65 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.
- 2.66 Due to the location of the site in a fairly rural location, there is potential for harm to the local landscape, nevertheless, is largely screened from longer views, due to the topography of the site and wider landform and existing tree and woodland planting on the site and in the wider area. In addition, the site is crossed by two PRow and a number of PRow, including the White Cliffs Country Trail are in relatively close proximity to the site. The landscape impact and impact on visual amenities from users of these PRow needs specific assessment, along with the impact on residential receptors and long-distance views of the site and wider area. However, the proposal is located in an area that has previously been identified for commercial development. The site is bounded by a native hedgerow along the frontage and either side of the access. A tree lined boundary runs down the eastern boundary. The existing boundary treatments will mitigate views of the proposed buildings when approaching from the east. To the north-west is Almond House and a cluster of former miner's dwellings associated with the Colliery and an electricity sub-station. The White Cliffs Country Trail is located to the north and south of the site and will afford some views of the site. From the south the views will be set against the backdrop of Almond House and existing built development. From the north, the site will be in the foreground of the landscape but mitigated by existing trees and vegetation. It is considered that the principle of the impact of this development has been established through the planning history for this site and that subject to the retention of existing boundary treatment where possible, that the proposal will assimilate into the wider character of the area (which is rural in character but interspersed by pockets of built development).
- 2.67 A Landscape and Visual Impact Assessment (LVIA) was submitted in support of the application. This is a detailed assessment, conducted in line with industry guidelines, which sets out a fair and reasoned assessment of the potential landscape and visual amenity impacts. The assessment identifies the character of the wider area and site before assessing the impact at year 1 of development and year 15, following completion. This identifies (in summary) that the impact on

the character of the landscape and visual amenity will be at its worst, low or moderate adverse at year 1 but changes to moderate beneficial at best to neutral at year 15. This is due to existing landscape features that are to be retained and enhanced in the context of the site, along with the existing group of trees and woodland. The report identifies there will be some inevitable adverse landscape and visual effects at year 1 but these would be localised and limited in their extent and would have a low beneficial impact by year 15. Overall, the site is considered to have a capacity within its landscape context to accommodate the proposed development. An extract from the conclusion's states:

"In respect of Policy DM16, the Proposed Development would not 'harm' the landscape character of the Site. This is because the Proposed Development has responded positively to the sensitivities of the Site in locating new massing across previously prepared 'platforms', enabling the retention of the overall vegetation structure, recreational value and Community Park within the Site. This landscape assessment has predicted beneficial landscape effects as a result to the Site and has embedded within the parameter plans, primary mitigation to avoid landscape and visual 'harm' and mitigate visual impacts to an acceptable level."

"This is due to commercial land uses being located adjacent to Almond House and Intercrop, such that they are spatially consolidated within the landscape and are proposed at a similar scale and height. The residential land uses are also located in adjacent to Almond House and in locations of existing substations and boiler houses within the Site."

"The location of the proposed massing would retain the vegetation structure across the Site and the key landscape features and therefore enable the buildings to be successfully integrated into the Site and surrounding context. The Proposed Development is therefore considered to be able to be accommodated within the landscape and visual context and would contribute towards the NPPF environmental role of sustainable development in landscape and visual terms."

- 2.68 Overall, the submitted assessment is a fair and well-reasoned assessment of the impact on the landscape character and visual amenity from the proposed development and the impact, as a whole, can be summarised as 'neutral'. It is therefore the view that this assessment can be supported and accepted and therefore on this occasion, additional independent advice is not necessary to assess the impact on the wider landscape.
- 2.69 The massing of the development, is also shown on the indicative site layout and massing plan that confirms that the development of this site could be appropriately sited to 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 between two to three storeys, the commercial buildings have a height of 12.5m, in keeping with the existing height of Almond House and the heights across the site are varied to take into account existing topography and the sensitivity of key views. 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, to ensure that the height of the proposed dwellings are appropriate and acceptable in respect of visual amenities in the round.
- 2.70 It is therefore concluded that the scheme does not give rise to any unacceptable impacts on the visual amenity of the site or the surrounding landscape character. As such, the proposal is in accordance with policy DM16 of the Core Strategy and

paragraph 170 of the NPPF, as no significant harm has been identified that cannot be mitigated accordingly.

Highway Impacts and Public Rights of Way

- 2.71 The relevant Core Strategy policies are DM11 and to a lesser degree policies DM12 and 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.
- 2.72 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.
- 2.73 The application site would be accessed off the A258 Sandwich Road roundabout, to the east of the application site with access from Betteshanger Road utilising the existing roads and junctions. An access road already extends into the development site, with the developable areas serviced off a roundabout forming Colliery Way. This infrastructure including surface water drainage was all implemented under the outline permission for a business use on the application site. The layout of the roads within the site would be addressed at a reserved matters application. Vehicular access from Broad Lane will also be retained as existing, with traffic calming measures in place. This is expected to be used as a secondary access and needs to remain a through route as it is used by Intercrop.
- 2.74 The highway position has been considered in detail by KCC Highways (in consultation with our appointed highway consultants) following the submission of an updated transport assessment to address the planning status of the land. The revised assessment has considered the application as a new proposal using the most up to date traffic figures for the local area and is in line with the traffic assessments undertaken for the Local Plan Review (Reg 18).
- 2.75 The proposed residential development is likely to generate approximately 275 two-way vehicle movements, with 152 in the morning peak and 134 in the evening peak hours. This takes in account residential and commercial traffic and primary and secondary school traffic. The residual peak hour traffic generation as a result of the proposals is approximately 94 two-way vehicle trips, with a distribution at the site accesses of 27(am)/24(pm) trips to/from the north via the A258, 25(am)/41(pm) trips to/from the A256 to the west via the link between the site and Broad Lane, and 42(am)/28(pm) trips to/from the south via the A258. The assessment of the A258 route to/from the north shows that there is unlikely to be a severe impact, as a result of the development.
- 2.76 On the route to the south via the A258, the development adds only 9 turning movements (6 in and 3 out) at the A258 London Road/Mongeham Road junction.

It is acknowledged that there is an existing section of Mongeham Road on the approach to London Road where the carriageway is of insufficient width for two vehicles to pass, and this can occasionally cause traffic to queue back into London Road when drivers having turned in from London Road then have to give way. The applicant has therefore proposed some works to improve the existing situation by formalising the existing informal give way arrangements, but for drivers heading towards London Road rather than those having turned in from London Road, which should prevent vehicles queuing back onto the A258. The scheme currently proposed will require a safety audit and need to complete a detailed design and approval process through the highway authority, however these requirements and highway works to the junction can be secured by a condition.

- 2.77 With regard to the A258 London Road/Manor Road roundabout junction, base modelling data is available through the work done for the draft Local Plan. This provides a forecast of the likely existing situation at the end of the Local Plan period in 2040 with committed development and traffic growth taken into account. The proposed development trips have been added to this scenario in order to assess their impact. The assessment shows that the average delay time for vehicles passing through the junction is likely to increase by 2-3 seconds as a result of the proposed development, which is not considered to be severe.
- 2.78 Due to the location of the site it is necessary to ensure that other means of transport are available, other than use of private cars. Discussions have taken place between Stagecoach and KCC Highways and Transportation to ensure the provision of bus services to the site. The application includes details of two new bus stops on the A258 Sandwich Road, near to the junction with Betteshanger Road. These comprise a bus stop in both directions on either side of the roundabout including a bus layby/pull in area and associated works. New and upgraded pedestrian footpaths are also proposed and the works include a pedestrian crossing to the south of the roundabout and an island crossing facility. Furthermore, there is the potential for a diversion of services through the site by providing appropriate infrastructure for a bus stop on Betteshanger Road. This has been agreed in principle by Stagecoach and future proofs the provision of a bus service. Details of this bus stop and its implementation can be secured through a condition. In addition, the indicative Masterplan submitted also indicates pedestrian access to/from Circular Road providing a connection to the existing bus stops, the detail of which can be resolved through reserved matters, nevertheless, a condition has been included to ensure this matter is adequately addressed at the required stage.
- 2.79 The off-site highway works including, two new bus stops, a pedestrian crossing on Sandwich Road, alterations to the Mongeham Road junction and upgrades to footpaths and associated road signage and lighting can be secured through a Section 278 highways agreement. All of the proposed works are either within highway land or land controlled by the applicant. This can be further secured through a condition, however the bus stop approved plans would be already secured within the approved plans condition. The site also has links to public transport within walking distance, as there is a bus stop at Circular Road.
- 2.80 Following additional survey work and clarification and a Stage 1 road safety audit for the proposed bus stops on Sandwich Road, KCC Highways have raised no objection, subject to conditions and have confirmed that the proposed junction and the proposed traffic is acceptable on the highway network and does not raise capacity or highway safety concerns. This has also taken into account committed development on other housing sites. KCC Highways have advised that the bus

stops on Sandwich road should be secured prior to the use of the site commencing, a travel plan should be brought into use to further reduce dependency on private cars and EVC charging points should be provided. The proposed works do not therefore result in any highway safety or capacity concerns and accord with paragraph 109 of the NPPF.

- 2.81 KCC Highways have also advised that there is an existing footway/cycleway along Betteshanger Road within the site, providing a connection to the existing pedestrian/cycle route in Sandwich Road which then provides a route to/from Deal and the Betteshanger Park opposite the site. Access to the site by bus, cycle and on foot is therefore acceptable. In addition, a framework Travel Plan has been submitted and it is noted there is likely to be a net reduction in vehicle trips with the provision of new bus stops. A detailed Sustainable Travel Plan promoting and encouraging sustainable travel can, however, be secured by condition, which should consider funding discounts for bus travel and cycle purchase and an emphasis on sustainable travel.
- 2.82 KCC Public Rights of Way Team (PRoW) have also set out a number of requirements and a suggested condition, bearing in mind the high number of PRoW in the area and extending across the application site. The site is well served by PRoW and these form important links with the wider network (White Cliffs Trail and Miners Way Trail) and add to sustainable travel opportunities. PRoW EE367 runs adjacent to the site boundary linking the site with Northbourne and Fringlesham. PRoW EE368 is directly affected as it crosses the site between the two wetland areas and should be maintained throughout the development. There is a statutory duty to protect and improve the PRoW network and they are a material consideration. The applicant has referred to the enhancement of these PRoW, but no details have been provided at this stage. It is therefore reasonable to impose the requested PRoW Management Plan condition requested to ensure the PRoW can be fully maintained and enhanced throughout construction and post development stages. This would include surfacing details, signage and how access would be maintained. It is also agreed that the travel plan should set out in the suggested condition how this will encourage and enhance walking and cycling infrastructure.
- 2.83 For the above reasons, the site therefore has good connections to a number of facilities, with the nearby villages within walking or cycling distance. The proposals therefore provide good connections to the existing villages and the adjoining built form of Deal and the town through the enhancement and investment in these existing links that encourage both walking and cycling and add to the sustainable travel options available from the application site, including bus connections that are to be enhanced and improved. This provides a good basis for more sustainable transport opportunities with the proposed travel plan encouraging their use and controlled through conditions. On this basis the requirements of NPPF policies and Policy DM11 of the CS have been fulfilled and the development is acceptable on these grounds.
- 2.84 Significant concerns have also been raised by third parties that the development would significantly and detrimentally increase and impact on traffic and the highway network in the area, which is identified as already struggling to cope with existing levels of traffic locally. In addition, that the site is not sustainable. It is however considered that with appropriate conditions, as discussed above, 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 accord with the aims and objectives of paragraph 109 of the NPPF as well

as local standards and planning policies. It provides sustainable travel options and the siting from a highways perspective is considered to be sustainable.

- 2.85 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 and employment uses. 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.
- 2.86 In conclusion, KCC Highways have considered in detail 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. Provision has also been made and secured for public transport and upgrades to footpaths and cycle routes that provide and encourage sustainable forms of transport. The highway issues are considered to be 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.

Drainage and Flooding

- 2.87 The majority of the site lies within Flood Risk Zone 1, where there is the lowest risk of flooding. However, Flood Risk Zones 2 & 3 extend across Betteshanger Road, close to the junction with the roundabout of the A256. Nevertheless, 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.
- 2.88 A detailed Flood Risk Assessment (FRA) has been submitted in support of the application which confirms that flooding from tidal (including from the surrounding drainage network) and surface water is possible, but there is limited evidence of this due to the topography of the site, existing drainage and flood defences. Nevertheless, flood mitigation measures (floor levels above 150mm) have been recommended and have been identified to take into account a 1 in a 1000-year surface water flooding event. If Betteshanger road were to flood in an extreme event it is anticipated this would be below 0.3m and not a risk to life or access to the site.
- 2.89 In terms of surface water drainage, (including roads) the existing site is currently served by series of basins and wetland discharging into the watercourse as part of Sandwich Bay and Hacklinge Marsh. The proposed development site has been divided into seven drainage sub-catchments, which had drainage infrastructure installed and capped at each access. Storm water will be attenuated within each sub-catchment before discharging into the existing (but extended attenuation basins) and wetland at a controlled rate. The overall drainage strategy for the site is to upgrade and utilise the existing attenuation basins and wetland including flow

restrictions to serve surface runoff from the proposed development. With the final total discharge from the wetland into the watercourse controlled at greenfield runoff rate. The wetlands are also to be extended to accommodate the run-off from surface water before discharging into the watercourse. The wetland also provides additional storage capacity in the event of an extreme storm event.

- 2.90 The FRA identifies that ground conditions do not support full infiltration for the discharge of surface runoff, due to the potential for ground contamination and potential leakage into the water network. However, infiltration rates have been demonstrated through testing with the discharge rate proposed at 27.8 l/s for the 1 in 100-year event with 40% climate change allowance. The site drainage also includes the use and combination of swales, permeable paving, the existing detention/attenuation basins and wetland to be used to discharge the surface water runoff to the existing river. The submission therefore fully demonstrates that the flooding can be accommodated within the site's existing but extended arrangements.
- 2.91 These methods of surface water disposal are considered acceptable for this site with KCC Flood and Water Management, the Lead Local Flood Authority, raising no objection in principle, subject to conditions relating to 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. The EA have also confirmed that drainage and other controlled measures on the site are appropriate subject to conditions and the Internal Drainage Board find the SuDS approach acceptable in principle but request further assessment to ensure the impact downstream and on ecology is acceptable.
- 2.92 Southern Water supplies water and foul waste at this location and they have raised concerns in relation to existing foul sewage disposal capacity for the proposed development. They have advised of the potential need for upgrades on the system and how this is expected to be funded as part of their capital schemes and infrastructure funding provisions. They advise that they require further details of the timing of delivery to ensure capacity is available and a formal application for a connection to the public sewer to be made by the applicant. They have not raised an objection to the proposal and have suggested a condition in respect of details of foul drainage and timing of works to a line with infrastructure upgrades. As this is an outline application, such conditions can be imposed to provide suitable details before or as part of a reserved matters application. This does not preclude development and is the appropriate mechanism to address foul drainage capacity concerns.
- 2.93 The site already has a foul drainage system and sewers in place. There is an existing foul drainage treatment plant on site, adjacent to the wetland area, that already serves dwellings in Circular Road. It treats sewerage before pumping and discharging to the ground water system. The upgrading of this existing system is considered to be the most appropriate solution for the proposed development. The foul waste connects to an existing sewer pipe that flows east to the western boundary of the Country Park before discharging to ground water. It does not connect to the Deal town combined sewer. The proposal is therefore acceptable in this regard, subject to appropriate conditions and complies with the NPPF and all appropriate guidance.

Heritage Assets

- 2.94 The application is supported by an Archaeological Desk Based Assessment and Built Heritage Assessment that addresses the impact on heritage assets, listed buildings and archaeology on the site, in accordance with Paragraph 189 of the NPPF. This describes the significance of surrounding heritage assets and the associated impacts.
- 2.95 DDC Heritage, Historic England and KCC Archaeology have all provided comments on the application. Historic England and DDC Heritage have both confirmed that the proposed development will not have a detrimental impact on heritage assets in the area. The impact on the Northbourne Conservation Area and associated listing buildings has been assessed along with their interaction with the site and adjoining landscape. It is confirmed that due to the undulations of the land and the heavy vegetation screening there will be no impact on the relevant heritage assets and the site does not connect visually with the conservation area or Northbourne Court, a registered park and garden. Historic England have also raised no concerns. The impact on these heritage assets is therefore acceptable and raises no concerns from a heritage perspective and requires no further assessment as it complies with the relevant tests in the NPPF.
- 2.96 In terms of archaeology KCC Archaeology Unit have identified that the site lies within a landscape that is generally rich in archaeological remains. The applicant's desk-based assessment notes that it is unclear to what extent the construction of the colliery buildings and associated infrastructure would have impacted pre-colliery archaeological remains. It is possible that in some areas the former colliery's construction would have had a severe impact on below ground archaeology, but in other areas archaeological remains may have survived unaffected. Contrary to the applicant's desk-based assessment KCC Archaeology note that buried remains of the colliery itself might be of industrial archaeological interest. It is therefore recommended that given the archaeological potential of the site, a staged approach would be appropriate, whereby a combination pre-existing and acquired data could be used to better understand and model the likely survival of archaeological remains across the colliery site, including both pre-colliery and industrial archaeological remains in order to target appropriate mitigation works. Such mitigation works might include archaeological watching brief(s), but could also include targeted open-area investigation, detailed excavation or indeed no further archaeological work. Therefore, a condition to require the implementation of a programme of archaeological works is necessary. On this basis potential archaeology can be addressed and the development is acceptable in this regard, in line with the NPPF.

Affordable Housing and Dwelling Mix

- 2.97 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 63 dwellings. The affordable units should be designed and positioned in small clusters and be tenure blind. The Council would seek 70% (44 units) of the affordable units to be provided as affordable rented homes with the balance (19) provided as shared ownership units. It is considered that, subject to being secured through a condition or section 106 agreement, that would require further details of the provision and tenure, the development could accord with Policy DM5 of the CS and the Affordable Housing SPD. Further details of the affordable housing provision would be considered at the Reserved Matters stage, subject to design considerations. There is a need and a demand for affordable housing of all sizes and tenures across the district. The mix proposed includes 2 bed flats and

2, 3 bed houses. This mix would be supported as it meets the identified housing needs in the district and it is recommended that the shared ownership properties are predominantly 2-bedroom homes and flats. The proposal would therefore respond to the need for affordable housing through the provision of policy compliant affordable housing for local people.

- 2.98 The latest Strategic Housing Market Assessment (SHMA) identifies the broad split of demand for market housing to meet the prioritised needs of the district. At this outline stage limited indicative details of the dwellings have been provided, however, all units are expected to comply with minimum national space standards and will comprise 2, 3, 4 and 5 bed units, with the highest proportions being 3 (42.2%) and 4 (35.4%) bed units. Any reserved matters application would, however, need to be in line with the proposed Masterplan, but will also need to consider the need identified in the SHMA at that time. The proposed mix is considered to be appropriate at this stage and for its location.
- 2.99 The inclusion of self-build plots is strongly encouraged and fulfils a housing need requirement and government guidance for such provision. The self-build plots would need to be made available to people registered on the DDC Self-build register and the size of the plots should be suitable for the requirements of registered people. This will require the developer to provide serviced plots, but which should also facilitate semi-detached or terraced properties if required. The details of the proposed self-build plots would need to be considered further at Reserved Matters stage.
- 2.100 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 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 many of these aspects have been considered in the indicative layout and the layout is in line with relevant policies and design guidance. The policy also identifies a need to provide an appropriate density for development sites which will be design led 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 31 dwellings per hectare which is a medium to low density level. The density also reflects the large sections of landscaping being retained including woodland and the community park and is considered appropriate in relation to the character of this site and its relationship with its landscape context.
- 2.101 The density is also proposed to vary on the site with medium and higher densities occupying the core development area, focused around the central/community park, These will comprise mainly semi-detached and terrace house types as well as small apartment buildings, which will locally raise net densities in some areas. Detached dwellings will be focused towards the edges of the proposed development and to the west. It should be noted again that the eastern development parcel, adjacent to the wetland area has now been removed from the proposal, although still shown in the main masterplan submission document.

Layout and Residential Amenity

- 2.102 The precise location of the new build dwellings is not finalised at this stage, with this element being submitted in outline and indicative only. Consequently, the final layout, which will be the subject of an application for approval of reserved matters and would need to align with the masterplan and revised indicative layout. This plan seeks to demonstrate that the proposed development could be accommodated in a manner which would ensure that reasonable separation distances between new and existing properties and that reasonable a standard of accommodation and layout can be achieved. A detailed assessment would form part of any reserved matters application.
- 2.103 In terms of layout and design of the proposed housing is to follow Building for Life 12 principles and seeks to establish good urban design. It is considered that some revisions from the masterplan are expected, in particular the need to provide more frontage development throughout the residential areas and careful attention to the edges of the development platforms. These elements would need to be explored further were a reserved matters application forthcoming. In terms of design of the units limited details have been provided at this stage but it is proposed to use solar gain in the siting and provide overall provide a sustainable form of housing, including green roofs and solar panels. The applicant will also be encouraged to engage with Kent Police in respect of the need to establish Secured by Design principles and physical security requirements of Crime Prevention through Environmental Design. A condition to require such a scheme is suggested to address the concerns raised by Kent Police in their representation. It is expected this would be addressed at a reserved matters application.
- 2.104 Whilst the living conditions of the proposed new build dwellings cannot be established, 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 throughout. This includes additional noise mitigation measures for those dwellings facing Betteshanger Road that is addressed further below.
- 2.105 The development has the potential to cause some harm to the amenities of existing 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.

Development Contributions

- 2.106 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.
- 2.107 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 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.

- 2.108 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. The developer is not proposing to provide the provision of formal public open space, only informal and therefore there is a requirement for a contribution towards the provision of an outdoor sports facilities' contribution. A children's play space already exists on site (located in the community park) and its provision is to be maintained and enhanced as part of the proposed development, therefore there is no requirement for an additional children's equipped play space. However, this provision needs to be addressed in the s106 agreement.
- 2.109 In terms of the outdoor sports facilities and the playing pitch strategy, it is not practical for this to be provided on site and there is a need to improve the sports facilities at the adjoining Betteshanger Social Club. The applicant has stated the intention to provide additional land to enhance sports facilities and is in discussions with the Trustees to agreed suitable arrangements, this provision needs to be secured in the s106 agreement. In terms of sports pitch provision, the same pitch is used for football and cricket. A contribution to secure additional pitch provision adjacent to the application site is considered to be the most appropriate location for the upgrading of pitch facilities. It has therefore been calculated that a proportionate contribution for the provision of an additional pitch is £94,196.96 is to be provided towards this outdoor sports provision and secured through a s106 agreement. With the payment of this contribution, ongoing maintenance and the transfer of land, the proposal would accord with Policy DM27 of the Core Strategy.
- 2.110 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.
- 2.111 The proposal would give rise to additional school pupils and the need can only be met through further expansion of primary school provision in Sandwich and Deal and expansion of Goodwin Academy in Deal. Total contributions of have been requested from this development to meet the need identified of £747,362 towards primary provision and £730,940 towards secondary provision. KCC have also requested contributions towards library resources, social care provision, youth services and community learning which are set out below. Additionally a waste contribution has also been requested, however, the basis for requesting a waste contribution has still to go through the consultation process with LPA's and on this basis the request cannot be confirmed to meet the required tests and will not be sought for the proposed development.
- 2.112 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.
- 2.113 NHS CCG have identified a need for a contribution from the development and the need for additional primary care facilities in Sandwich and Deal area of £181,440.
- 2.114 The applicant has agreed in principle 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 primary schools within Sandwich/Deal Planning Areas – total £747,362
- Secondary Education- towards expansion at Goodwin Academy £4540 per dwelling or £730,940 in total
- Library - contribution towards Deal library services and bookstock of £11,644.50
- Social Care – contribution of £30,844.80 towards specialist care accommodation in the district
- Youth Service – contribution of £13,755 towards additional resources for Deal Youth Service
- Community Learning – contribution of £3,448.20 towards resources at Deal Adult Education Centre
- Thanet and Sandwich Coast Management Strategy - A total of £12,381.39 is required as a contribution towards mitigation strategy
- Off-site public open space – transfer of land for outdoor sports facilities at Betteshanger Social Club
- Playing Pitch Provision – contribution of £94,196.96 towards additional pitch provision
- NHS CCG - contribution towards General Practice in the Deal and Sandwich area of £181,440
- Monitoring per trigger event of £236 per event
- Payment of all associated legal costs.

The full range of contributions required by the development are being met by this proposal.

Other Material Considerations

2.115 The likelihood of contaminants on site is high due to the previous use of the land and elevated levels have been recorded following initial on-site testing. The proposed end use is residential and highly susceptible to risks of contamination. An initial contamination report has been submitted further remediation is required beyond the initial decontamination and remediation works undertaken by SEEDA some years ago. The contamination report has been assessed by both DDC Environmental Health and the Environment Agency who have both recommended the full suite of contamination conditions are required to ensure the next stages (remediation and verification) are adhered to accordingly to address contamination of the site and that any further contamination identified during construction will require further investigation and any further remediation/mitigation measures are submitted and approved. Such conditions appropriately address any potential contamination of the site. Environmental Health and the Environmental Agency both agree that subject to these conditions the development would adequately address contamination on site.

2.116 In terms of the previous mining operations and potential mine shafts it can be confirmed that these were filled and capped during the previous enabling works and would not be expected to cause future health and safety issues. The applicants have undergone the appropriate checks in this regard. The Coal Authority submitted a late representation of the need for a Coal Mining Risk Assessment. This was duly submitted and demonstrated that the risks have been addressed appropriately. The Coal Authority removed their holding objection and have suggested a number of conditions to safeguard against land stability issues associated with the former use.

- 2.117 During the course of this application, KCC reviewed and adopted their updated Kent Minerals and Waste Local Plan (2020). This requires under policy DM 7, a greater consideration and an assessment of the impact on safeguarded mineral deposits, being Brickearth (Other Areas) – Ashford, Canterbury, Dover, Shepway. The application falls therefore within the Dover District Minerals Safeguarding Area, even though it is not actively being extracted. As a result, there was a requirement for the applicant to submit a Minerals Assessment in support of the planning application. A Minerals Note was duly submitted and assessed by KCC. It has been concluded that due to the relatively limited overall size of the site together with an absence of a brick making industry that is actively using this material strongly, it suggests that this mineral deposit is not of economic importance at this time. Therefore, it is considered that exemption 1 of Policy DM 7 can be invoked and the mineral deposit does not form a constraint to development.
- 2.118 A Noise Assessment has also been submitted that measures background noise levels to assess the predicted internal noise levels for the proposed dwellings. Except those properties facing Betteshanger Road internal noise levels will be acceptable. The proposed units facing Betteshanger Road will need to incorporate additional acoustic mitigation to provide the required internal level with windows shut, due to the existing noise associated with Intercrop uses. It is therefore appropriate to include a condition to require all properties to achieve the required internal noise levels with mitigation and ventilation as appropriate. This would address any noise concerns identified, in line with guidance.
- 2.119 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 also be required to be submitted at reserved matters stage and would not be subject to scrutiny at this stage.

3. The Planning Balance and Conclusions

- 3.1 The planning case for the development proposal is set out in detail within this report and is considered to be persuasive, save for the valid, and unresolved, objections and concerns which remain in relation to the ecological issues identified in the report. It is considered that these ecology concerns should be addressed by the submission of more appropriate and detailed mitigation and compensation proposals which address DDC's Natural Environment Officer's concerns, and then controlled through conditions and the terms of the s106. However, the proposals are not sufficiently clear at this stage and a further report will be provided to members once officers are satisfied that the ecology matters have been appropriately addressed. Nevertheless, if the ecology concerns cannot be satisfactorily addressed by the relevant parties, in accordance with the legislative and policy requirements, this will ultimately preclude a recommendation to grant planning permission in a future report.
- 3.2 In terms of the principle of development on this site, it has been demonstrated that the development accords with the objectives of the Development Plan and the NPPF, taken as a whole. The report sets out that residential development of this site is sustainable and in line with established policy objectives. The site has been identified for housing in the draft local plan and is found to be acceptable in terms of highway, drainage, landscape impact, layout, density, climate change considerations and the provision of affordable housing. Accordingly, it is appropriate to weigh up the significant economic, social and overall environmental benefits that do not result in demonstrable harm (notwithstanding ecology) of the proposal against any negative effects (again other than ecology) and conclude that

the development is sustainable and could be granted planning permission in due course, in accordance with the approach identified in the NPPF.

- 3.3 The case for the economic, social and environmental objectives of sustainability set out in paragraph 8 of the NPPF has been made in the sustainability section of this report including a range of sustainable and environmentally friendly features, concluding that as a whole the proposal is a sustainable form of development with many benefits. Consequently, except for the identified ecological issues, the proposal has been found to be acceptable in all other material considerations. It is therefore an acceptable and sustainable site for residential development and it is recommended that Members indicate that they are minded to approve the proposal in principle as it meets the overarching objectives of the Core Strategy and the framework in the NPPF as whole. The NPPF provides clear policy support for the proposals, the 'tilted balance' applies and in accordance with Paragraph 11 (d) planning permission should be granted for the development "unless 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".
- 3.4 When weighing up the benefits of the development identified in the report, although there is a significant amount of local objection to the proposed development there identified harm (subject to the resolution of ecology) that would significantly and demonstrably outweigh the benefits of providing additional housing on this site that is not countryside but a partially developed site within the district, including the provision of 30% affordable housing, employment floorspace and community benefits, including the wide range of development contributions towards local infrastructure set out above that have all been agreed in principle.
- 3.5 Additionally, the applicants have also identified their position in terms of the development being sustainable and the under delivery of housing sites. As referred to above, the Council has a 5-year supply of housing that can be delivered, however, there is also a need to provide additional housing sites in the Local Plan Review (Reg 18). It is therefore appropriate to approve in principle residential development on this site. A more in-depth discussion of the Council's housing land position and its deliverability is not, therefore, required at this stage. The proposed development of up to 210 dwellings will be a substantial contribution to the availability of housing within the district and will contribute towards the 569 units per annum now required under the methodology for housing need.
- 3.6 The proposal represents a commitment to delivering a positive outcome for the site and the surrounding area, balanced across a wide range of considerations. The only outstanding issue is the ecology position and the need for this to be resolved before a formal decision can be made. All other material considerations have been dealt with satisfactorily and are in line with the development plan and NPPF Framework taken as a whole and can be controlled through the suggested conditions and s106. The principle of development is therefore accepted, notwithstanding ecology.
- 3.7 The application is therefore at a stage where ecology still hasn't been adequately addressed, but there is a likelihood that it could be, although further work, including additional surveys, are required. On this basis, it is recommended that Members are requested to be minded to approve the scheme in principle at this stage to provide a level of certainty and confidence for the developer to progress with the necessary ecology work that will be reported back to planning committee in a further report once officers are satisfied each aspect has been adequately addressed in line with guidance and legislation. Officers are satisfied that all other

matters have been addressed in accordance with planning policies, save for ecology and request that Members are minded to approve in principle outline development on this site.

g) Recommendation

- I The Planning Committee indicates that it is MINDED TO GRANT PLANNING PERMISSION subject to the resolution of the outstanding ecology matters (set out above) and to the consideration of a further report to Planning Committee for a final decision.
- II A Section 106 legal agreement to secure necessary planning contributions set out above and subject to the following conditions to include:
 - 1) Reserved matters details
 - 2) Outline time limit
 - 3) Approved plans
 - 4) Phasing plan to be approved in writing
 - 5) Self-build design code to be agreed as part of RM
 - 6) Details of play space to form part of RM
 - 7) Existing and proposed site levels and building heights
 - 8) Internal acoustic requirements for dwellings
 - 9) Construction Management Plan
 - 10) Highway conditions (parking, visibility splays, highway works fully implemented, turning facilities, cycle parking, gradient, surface, works to all footpaths and drainage, bond surface, surface water)
 - 11) Sustainable Travel Plan to be agreed prior to commencement
 - 12) Completion of the A258 Sandwich Road bus stop scheme prior to first occupation
 - 13) PROW upgrades and management scheme
 - 14) Completion of off-site improvements to Mongeham Road prior to commencement and subject to a safety audit process
 - 15) Provision and maintenance of a pedestrian connection to Circular Road
 - 16) Landscaping Details and maintenance of green spaces
 - 17) Open space management plan
 - 18) Protection of Trees and Hedges and root protection zones
 - 19) Hard landscaping works and boundary details/enclosures
 - 20) Reporting of unexpected land contamination
 - 21) No works on site until final SuDS details are submitted
 - 22) Design details of surface Water drainage strategy
 - 23) Implementation and verification of SuDS scheme
 - 24) No other infiltration on site other than that approved
 - 25) Full foul drainage strategy for approval
 - 26) Environmental Construction Management Plan
 - 27) Internal noise levels
 - 28) Programme of archaeological works
 - 29) Details to be submitted at RM for compliance with Secured by Design principles
 - 30) EVC points for each dwelling & 10% unallocated & employment parking spaces
 - 31) Broadband connection
 - 32) 4 Stage contamination, remediation and verification conditions
 - 33) Reporting of unexpected land contamination
 - 34) Update survey to be carried out for Badger prior to commencement
 - 35) Production of ecological mitigation strategy setting out safeguards to be implemented during the construction phase

- 36) Production and implementation of method statement for translocation of notable plant species (including Grass-poly) and invertebrates
 - 37) Production of detailed management plan for retained onsite habitats and new habitat creation, to include details of green roof/brownfield habitat provision and faunal habitat features
 - 38) Production of detailed management plan for the open mosaic habitat management area within the country park
 - 39) Design of a sensitive lighting scheme in relation to bats and other nocturnal species
 - 40) Implementation of a habitat manipulation exercise in relation to reptiles
 - 41) Works affecting nesting bird habitat to be undertaken outside of the nesting bird season, or following nesting bird checks
 - 42) Sustainable energy measures to be approved in accordance with the approved Energy Statement and Sustainability Assessment
 - 43) BREEAM very good criteria for commercial buildings
- III 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 the Planning Committee.

Case Officer

Lucinda Roach