

**a) DOV/20/01245 – Outline application for the erection of up to nine residential dwellings (with all matters reserved) - Site South of Marlborough Road, Deal**

Reason for report: Number of contrary views (20)

**b) Summary of Recommendation**

Planning permission be approved.

**c) Planning Policies and Guidance**

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy.
- CP3 – Of the 14,000 houses identified by the plan 1,600 (around 10%) is identified for Deal.
- CP4 - Developments of 10 or more dwellings should identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which they are located and development an appropriate mix of housing mix and design. Density will be determined through the design process, but should wherever possible exceed 40dph and will seldom be justified ta less than 30dph.
- CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM5 – Development for 15 or more dwellings will be expected to provide 30% affordable housing at the site, in home types that will address prioritised need.
- DM11 – Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.
- DM25 – Development which would result in the loss of open space will not be permitted unless it meets one of five exceptions and where the site has no overriding visual amenity interest, environmental role, cultural importance or nature conservation value.

Land Allocations Local Plan

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

## Draft Local Plan Reg 18

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft Plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

### National Planning Policy Framework (NPPF)

- Paragraph 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that development proposals that accord with an up-to-date development plan should be approved without delay or, where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless:
  - the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development (having regard for footnote 6); or
  - 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.
- Paragraph 12 states that the NPPF does not change the statutory status of the development plan. Development which accords with an up-to-date development plan should be approved and development which conflicts should be refused unless other material considerations indicate otherwise.
- Chapter five of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years' worth of housing. Where there is a need for affordable housing, developments should typically provide this housing on site.
- Chapter eight encourages development to aim to achieve healthy, inclusive and safe places by, amongst other things: promoting social interaction; allowing easy pedestrian and cycle connections; providing active street frontages; supporting healthy lifestyles; and ensuring that there is a sufficient choice of school places to meet the needs of existing and new communities. Of particular importance to this application is the promotion of safe and accessible green infrastructure and sports facilities. Paragraph 97 advises that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
  - an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
  - the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
  - the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
- Chapter nine of the NPPF seeks to promote sustainable transport. In particular, patterns of growth should be managed to maximise the use of public transport,

walking and cycling and address potential impacts on transport networks. Safe and suitable access to the site should be achieved for all users. Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- Chapter eleven seeks the effective use of land by using as much previously-developed land as possible, and supports the use of under-utilised land, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions. Low densities should be avoided, although account should be taken of the need for different types of housing, market conditions and viability, infrastructure capacity, maintaining the area's prevailing character and securing well-designed attractive places.
- Chapter twelve seeks the creation of well-designed places, with high quality buildings. Good design is a key aspect of sustainable development. Development should: function well and add to the overall quality of the area, be visually attractive; be sympathetic to local character and history; establish or maintain a strong sense of place; 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.
- Chapter fourteen requires that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk. Development should be directed away from areas at the highest risk of flooding. Major development should incorporate sustainable drainage systems unless there is clear evidence that this would not be appropriate.
- Chapter fifteen requires that the planning system contributes to and enhances the natural and local environments, by protecting and enhancing valued landscapes; recognising the wider benefits from natural capital and ecosystem services; minimising impacts on and providing net gains for biodiversity; preventing new and existing development from contributing to, being at 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.
- Chapter sixteen requires that development which has the potential to impact upon heritage assets should be supported information to describe the significance of the assets which may be affected. Where this relates to potential archaeological features, a appropriate desk-based assessed and, where necessary, field evaluation should be submitted. Any harm caused to assets should be weighed against the benefits of the scheme and the more important the asset, the greater the weight should be.

#### The Kent Design Guide (KDG)

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

#### The National Design Guide (NDG)

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

d) **Relevant Planning History**

DOV/16/00706 - Outline application for the erection of nine dwellings (all matters reserved). Approved.

DOV/17/00661 - Reserved matters application for approval of layout, appearance, scale, means of access and landscaping of the site and submission of details pursuant to condition 1 of DOV/16/00706 for the erection of nine dwellings. Approved.

DOV/18/00750 - Erection of 9 no. dwellings and associated parking (amended drawings). Refused and appeal dismissed.

DOV/20/00346 - Outline application for the erection of up to 14 no. dwellings with vehicular access and associated parking (with all matters reserved except access) (existing buildings to be demolished). Refused.

DOV/20/00779 - Outline application for the erection of up to 9no. residential dwellings (with all matters reserved). Refused.

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

DDC Environmental Health Officer - I refer to the above and note issues surrounding noise were addressed within previous applications for this site and my comments in memo dated 12<sup>th</sup> May 2020 for DOV/20/00346 apply.

No development shall take place until a site-specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison;
- Arrangements for liaison with the Council's Pollution Control Team;
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
- 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays;
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above;
- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works;
- Control measures for dust and other air-borne pollutants, mitigation measures should be in accordance with Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction

DDC Ecologist – views not received. However, it should be noted that under the previous application, the submitted survey findings were considered acceptable by DDC's ecological officer. It is considered that the previous comments in respect of this application would still apply.

In summary the report suggests the following mitigation measures which were recommended to be secured via suitably worded conditions:

- Habitat manipulation to prevent the use of the site by reptiles species should development not commence within the next 6 months. This involves keeping the sward short by grazing or mowing to discourage use
- Clearance of any woody vegetation outside of the bird nesting season (March to August inclusive).
- Covering of trenches overnight to prevent entrapment of mammals and other species

The recommendations for ecological enhancement are unfortunately rather limited and include:

- Sensitive landscaping including the use of native tree and hedgerow species
- Bird boxes for swallows and house martins.

I would suggest that a more ambitious list of enhancements should aim to include as many of the following as possible within the available space of the development site:

- Provision of hedgehog nesting boxes & 12cm square gaps under any new fencing to allow hedgehogs access into grassland areas.
- Bat roosting spaces within the new buildings (examples can be found in: Williams, C (2010).
- Biodiversity for Low and Zero Carbon Buildings: A Technical Guide for New Build. RIBA) or installation of ready-made bat boxes (such as Kent Bat Box, Habibat, EcoSurv Bat Box or Schwegler Bat tube)
- Reptile / amphibian hibernacula (as stand alone or within new walls by creating recesses into wall structures)
- Log piles for invertebrates (including stag beetles), reptiles and amphibians.
- Native wild flower grassland planting
- Establishment of climbing plants on walls and other vertical structures
- Creation of drought-resistant wildflower garden to attract invertebrates and reduce need for water
- Creation of a wildlife pond
- Integration of Sustainable Urban Drainage Systems (SUDS)
- Integration of green or grey roofs
- Consideration of grid mesh system (or Ground Reinforcement Grids) with topsoil and seeding with a wildflower species mix, to car parking areas to retain some vegetation as well as drainage.

DDC Housing Officer - In policy terms, the proposals for this site fall below the requirement to provide affordable housing on site, which is unfortunate since there is a strong and proven need and demand for affordable housing in Deal, and particularly for flats as is proposed here. A contribution towards off site provision will be required to contribute towards affordable housing to be provided elsewhere.

KCC Highways - The previous application for 14 dwellings identified that three existing parking spaces are lost to provide the new site access onto Marlborough Road and the same applies for this application, however the parking survey previously submitted demonstrates that this parking can be suitably accommodated elsewhere near the site.

It was also demonstrated with the previous application that an 11.3 metre refuse vehicle can manoeuvre satisfactorily in and out of the access, taking into account on-street parking in Marlborough Road.

A connection will be required between the site access and the existing highway footway in Marlborough Road, requiring removal/relocation of the existing industrial estate signage and provision of a section of kerbed footway in the highway verge. The details of this connection

can be dealt with through reserved matters.

Southern Water – no objection subject to conditions.

Environment Agency – the application has been assessed as having low environmental risk.

KCC Archaeology – The site lies within an area of prehistoric, Romano-British and medieval archaeological potential. The proposed development may impact on below ground archaeological remains. I therefore recommend that in the event that planning permission is granted the following condition is applied to any forthcoming consent:

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

KCC Contributions - The County Council 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. In light of the above, requests for financial contributions towards Secondary Education, Community Learning, Youth Service, Libraries and Social Care.

Deal Town Council – Deal Town Council object over lack of detail including materials, car parking, electric car charging points, cycle parking and that the area is a protected open space.

### **Public Representations**

20 letters of objection received raising the following matters:

- The site is designated open space - contrary to policy DM25
- Dangerous access
- There is a long-standing and ongoing problem with adequacy of the wastewater drainage system in Deal.
- Although new developments have separate wastewater and surface water drains, these feed into older combined sewers that become inundated and discharge foul water onto roads and eventually into homes.
- increase of traffic in the area.
- the destruction of woodland wildlife.
- increase to pollution noise and traffic.
- Unsafe and impractical access
- object on the grounds of traffic and noise pollution and wildlife destruction.
- Protected open space
- This area lies adjacent to an industrial area and access via a private road or Magnus Road makes it unsuitable for development
- The mains services run underneath where proposed entrance is so would be impossible to relocate these without huge disruption, this is a huge stumbling block and an oversight on the applicants part.

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

- 1.1 The site is a rectangular shape of mainly open paddock/grassland that has been designated as Protected Open Space on the Policies Map (Policy DM25). It is not accessible to the public. The site has a number of trees located across it, with a strong band of tree and landscaping along the southwestern boundary and southeastern boundary. The existing access to the site is from a private road serving a small industrial estate to the northwest. The access is in the form of a barred gate.
- 1.2 To the northeast of the application site is a small residential estate served by Marlborough Road and Magness Road. A terraced block of maisonettes/flats overlooks the site. To the east is The Conifers, a small cul-de-sac of detached houses. To the south is a parcel of land which has been fenced off with a low fence and which meets the (open fields) countryside to the southwest. It is noted that the gradient of land falls from northeast to south southwest such that the application site appears to sit at a higher level when viewed from Ellens Road. To the northwest are a number of industrial and commercial uses served by a private road off Marlborough Road. To the west immediately adjoining the site, there is a large vehicle workshop building with an open storage (likely to be B2 use) to the front. Other uses in the immediate vicinity include offices, open storage and Class B8 uses. The planning history of the uses on the estate is varied, but more recently planning permissions have been granted for Car Repairs/MOT, Showroom, Joinery and Workshops which have limitations on the hours and days of operation. The vehicle workshop to the south of the paddock land adjoining the application site is limited by a planning condition to operate until 6pm weekdays and until 4pm on Saturdays only. The 6pm closing time during the week is also imposed as a condition on the office building granted for Unit 2 on the adjacent industrial unit, and a workshop building with car sales granted in 1989 to the west of the application site.
- 1.3 There are no public footpaths within the immediate vicinity although there are clear paths to the west and southwest of the car vehicle workshop that crosses what appears to be private land leading to Ellens Road and Cross Road respectively.
- 1.4 The application seeks permission for the outline application for the erection of up to 9 no. dwellings (with all matters reserved).

## **2. Main Issues**

- 2.1 The main issues for consideration are:
- The principle of the development
  - Protected Open Space
  - The impact on the character and appearance of the area
  - The impact on residential amenity
  - The impact on Highways
  - Developer Contributions
  - The Impact on Highways
  - The Impact on Ecology
  - Archaeology

### **Assessment**

#### **Principle of the 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 Policy DM1 states that development will not be permitted outside of 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 site is located within the defined settlement confines and therefore accords with Policy DM1.
- 2.4 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. Again, as the site is located within the settlement confines, the development accord with Policy DM11. The occupants of the development would be able to access most day to day facilities and services within Dover and would be able to reach these facilities by more sustainable forms of transport, including walking and cycling. The site is located relatively close to public transport links.
- 2.5 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 596 dwellings per annum. Policy DM1 places a blanket restriction on development which is located outside of settlement confines, which is significantly more restrictive than the NPPF. As a matter of judgement, it is considered that policy DM1 is out-of-date and, as a result, should carry reduced weight.
- 2.6 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. For the purposes of assessing this application, the site falls within the settlement confines and so is supported by DM11. This support is broadly consistent with the NPPF which seeks to focus development in locations which are or can be made sustainable, where there is access to a range of modes of transport (including walking and cycling) and where development will support existing facilities and services, and social integration. Whilst DM11 is slightly more restrictive than the NPPF, it is considered that DM11 is not out-of-date and should continue to attract significant weight.
- 2.7 Policy DM25 seeks to prevent the loss of open space unless one of five exceptions are met and where, in all cases except where the second exception is met, the site has no overriding visual amenity interest, environmental role, cultural importance or nature conservation value. This approach is closely reflected by paragraph 97 of the NPPF, which also seeks to avoid the loss of open space unless one of three criteria are met, one of which is where the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity or quality in a suitable location. Given the degree of consistency between Policy DM25 and paragraph 97 of the NPPF, it is considered that DM25 is not out-of-date and continues to carry significant weight.
- 2.8 It is considered that policies DM1, DM11 and DM25, which are the 'most important' policies for determining this application. Policy DM1 is out-of-date,



whilst DM11 and DM25 are not out-of-date. Given how important DM1 is to the principle of the application, it is considered that the 'tilted balance' described at paragraph 11 (d) of the NPPF is engaged and, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. For completeness, the tilted balance is not engaged for any other reason, as the council has a demonstrable five year housing land supply (5.39 years worth of supply) and have not failed to deliver at least 75% of the housing delivery test requirement (delivering 80%).

#### Protected Open Space

- 2.9 The site is designated as open space and is protected by Policy DM25 of the Dover District Council Local Development Framework Core Strategy 2010 (the Core Strategy). Policy DM25 states any proposal that would result in the loss of public open space will not be permitted, subject to certain exceptions. These exceptions include the situations where there is an identified deficiency of public open space, but the site is incapable of contributing to making it good; or where there is a deficiency that the site is capable of contributing to making it good, but where an alternative suitable area can be made available.
- 2.10 Further, Paragraph 97 of the National Planning Policy Framework requires that existing open space should not be built on unless an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.
- 2.11 Whilst it is noted the site is not currently accessible by the general public, the Dover District Council Land Allocations Local Plan 2015 (the Local Plan) states in paragraph 2.39 that "Non-accessible open space with current or potential amenity value is also recognised on the map" and that this can include land in private ownership "if it is the only remaining open space in an urban environment".
- 2.12 As part of the emerging Local Plan Evidence base, consultants Knight, Kavanagh & Page (KKP) have recently merging Open Space Standards and Playing Pitch Strategy. Whilst only limited weight may be given to what is an emerging strategy at this time, the underlining methodology is nonetheless considered robust and constitutes the most up-to-date quantitative and quality analysis of the districts open space.
- 2.13 As part of the emerging strategy, KKP are recommending that open space that is currently classified as accessible greenspace should be further refined to make the distinction between accessible greenspace which is more formal parks and gardens and accessible greenspace which is less formal amenity greenspace. For this typology, they have identified a current provision of 1.26 hectares per 1,000 population within the Deal and Walmer area.
- 2.14 KKP are recommending using locally derived quantity standards which are more reflective standards as based on current local provision levels and views gathered as part of a consultation exercise. From this, they are recommending a quantity standard of 1.46 per 1,000 population for amenity greenspace. Consequently, the Deal/Walmer Analysis Area is identified as having a quantity shortfall against the recommended amenity greenspace standard and the loss of this site would erode this quantity shortfall further.

- 2.15 The current application is an outline application with all matters reserved. The applicant's agent has agreed to the provision of retention of the land shown in green for landscaping purposes, provision of LAP and amenity greenspace. Whilst no details have been submitted at this stage, in the event of grant of permission, appropriately worded conditions would be attached requiring submission of the details of the Local Area of Play including layout, design of the playspace, and equipment/features etc, detailed landscaping, provision of amenity green space. Finally, the provision and long-term maintenance/management of the Equipped Play Area and Amenity green space would be secured by legal obligation. Whilst there would be a quantitative loss of open space, there would be qualitative gain which, in my opinion, would outweigh the loss. In conclusion, subject to conditions detailed above and secured via a S106 legal agreement, the proposed development is considered to comply with policy DM25 of the Core Strategy.
- 2.16 Regard should also be had to paragraph 97 of the NPPF which resists development on open space unless one of three criteria is met. Annex 2 of the NPPF defines open space as, "All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for recreation and can act as a visual amenity". It is considered that the site has the potential to make a valuable contribution towards the needs of the community (public value) and has limited visual interest. The loss of open space resulting from the proposed development would be replaced by a qualitative Local Play Area and Accessible Amenity Green Space in a desirable location and would provide access to the members of the public. Having regard for the above, the proposed development would comply with paragraph 97 of the NPPF.

#### Impact on the Character and Appearance of the Street Scene

- 2.17 The site lies on the edge of open countryside. Therefore, regard must be had to Policy DM15 of the Core strategy which states that development which would result in the loss of, or adversely affect the character or appearance of the countryside will only be permitted in exceptional circumstances. In addition, Policy DM16 generally resists development which would harm the character of the landscape.
- 2.18 The development in the area is largely linear and street fronting along Marlborough Road and Magness Road; whilst to the southeast, there is a variation to the character, with large detached dwellings arranged as a cul-de-sac although the development continues to front onto the street. Properties are typically set back from the road behind front gardens. The scale and design of terraced blocks along Marlborough Road and Magness Road share similar architectural features whilst the detached houses to the southeast differ in scale and design. Regard must also be had to the non-residential uses in the area as they are considered to play an important role in establishing the character of the area. Immediately to the west of the application site is a large vehicle workshop with a number of storage containers located to the southwest of this building. Further to this, there are few commercial buildings across Marlborough Road to the northwest. It is notable that the cluster of commercial buildings is located towards the northwest/southwest area and as it stands, the application site acts as a relief break between the commercial and residential uses. Another important element to the character of the area are the undeveloped open fields to the southwest of the site, which provide a visual reminder that the site is located on the fringe of the town and provide an attractive semi-rural character. The

application site acts as a buffer and provides a soft transition between the hard-built urban area and the open countryside.

- 2.19 For ease of understanding, in this case, it is considered relevant to look at the layout of the buildings on a larger scale rather than simply assessing the prevailing layout in the immediate vicinity of the site. It should be noted that there is a high concentration of dwellings to the east and southeast. The dwellings fronting Cross Road have large private rear gardens which contribute to the open and low-density character of the area thereby facilitating the soft transition of the urban development into the open countryside. The development along Ellens Road is scarce and scattered with undeveloped open fields on either side of the road. The application site acts as a relief break between noisy commercial uses and residential uses where a degree of quietness is reasonably expected. It also helps facilitate a smooth transition between the hard built urban edge and the countryside. It was therefore considered necessary to ensure that this transition was retained. From the review of the proposed indicative site plan, it is noted that the parcel of land (shown in green) would be retained for landscaping purposes and to provide a Local Area of Play in accordance with the guidance in the NPFA Characteristics of Play Areas LAP and amenity greenspace which would in effect soften any visual impacts arising from the development.
- 2.20 Regard has also been had to whether landscaping could help mitigate the visual impact on the countryside. From the review of the proposed indicative site plan, it is noted that the parcel of land (shown in green) would be retained for landscaping purposes and to provide a Local Area of Play in accordance with the guidance in the NPFA Characteristics of Play Areas LAP and amenity greenspace which would in effect soften any visual impacts arising from the development.
- 2.21 In conclusion, it is felt that visual impacts arising from the development could be satisfactorily mitigated to an acceptable level with the help of effective landscaping strategy and sensitive design of the dwellings. In the event of grant of permission, suitably worded conditions would be attached to the permission require submission of details of the above. Therefore, the proposed development would not be contrary to policies DM15 and DM16 of the Core Strategy. It is also relevant to note that planning permission has previously been granted for this site under applications DOV/16/00706 and DOV/17/00661, which demonstrates that an acceptable scheme can be achieved.

#### Impact on Residential Amenity

- 2.22 Given the size of the site and its relationship with the immediately adjoining properties, it is considered that nine dwellings could be provided on the site without causing unacceptable harm to the neighbours, subject to acceptable details being submitted in the reserved matters application. The effects and impacts on neighbours would also drive the type of dwelling that would be acceptable on this site. These matters would be subject to detailed consideration at the Reserved Matters stage.
- 2.23 A noise impact assessment was not submitted with the application. However, it is noted that noise survey was carried out during the previous application DOV/18/00750 for the site. Environmental Health have advised that in the event of grant of planning permission the following be secured via conditions.

- *upgrading the proposed glazing to laminated glass, giving a further 6dB reduction,*
- *providing acoustic screening to the garden boundaries in the form of solid 2m high fencing which would reduce noise levels from the compressor and motor repairs by a further 7dB.*

#### Impact on Parking/Highways

- 2.24 The relevant Core Strategy policies are DM11 and DM13. DM11 requires planning applications for development that increases travel demand be supported by an assessment to quantify the amount and type of travel likely to be generated and should include measures that satisfy demand to maximize walking, cycling and the use of public transport. 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. The indicative layout plan shows the means of access via Marlborough Road whilst this is an outline application with all matters reserved. The details of the access could be dealt with at the reserved matters stage. Again, the previous grant of permission for the site demonstrates that an acceptable access can be achieved.
- 2.25 Concerns have been raised by third parties that the development would significantly and detrimentally increase traffic and have an impact on the local highway network which is considered to be struggling to cope with existing levels of traffic locally. However, KCC Highways have not raised an objection in this regard. In conclusion, taking into account KCC Highways comments, it is not considered that the proposal would result in an unacceptable highways impact or severe residual cumulative impacts on the road network and would therefore accord with paragraph 109 of the NPPF.

#### Ecology

- 2.26 The EU Habitats Directive 1992, requires that the precautionary principle is applied to all new projects, to ensure that they produce no adverse impacts on European Sites. Regard has been had to Natural England's Standing Advice which suggests that in rural areas, the likely presence of bats, breeding birds, badgers, reptiles and great crested newts could be expected. The application site is in a rural location. The site itself contains unmanaged grassland surrounded by dense mature trees/hedges. The application has been supported by a Phase 1 Habitat Survey. The findings within the survey have been considered acceptable. DDC's ecological officer has recommended that the ecological enhancements recommended within the survey be secured via suitably worded conditions.

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

- 2.27 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.

- 2.28 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.29 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.30 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.
- 2.31 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.

#### Drainage

- 2.32 The site lies within Flood Risk Zone 1, where there is the lowest risk of flooding. However, given the size of the site, it is appropriate to consider whether the development would be likely to lead to localised on or off-site flooding. The NPPF, paragraph 103, 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.
- 2.33 Southern Water have raised no objection and have recommended pre-commencement conditions to be attached in relation to surface water drainage and other matters. Third party representations were received raising concerns regarding the limited capacity of the sewers and frequent flooding in the area. In light of the concerns raised during the application process, a further query was raised with Southern Water in respect of the matters raised. Southern Water have confirmed the following: "A capacity assessment has been carried out which deemed there is capacity for this development." Notwithstanding this, and acknowledging that significant and understandable concerns persist in the locality, it is considered that it would be proportionate to require full details of surface water and foul water drainage to be submitted for approval prior to the commencement of the development.

#### Archaeology

- 2.34 The application site lies in the Mill Hill area of Deal which is exceptionally rich in buried archaeological remains. Significant archaeological remains are known to the north-east, north-west and south-east of the proposed development site and further archaeological remains may extend into the site in question.

- 2.35 During the nineteenth century several large chalk quarries were developed along the Mill Hill chalk ridge by local builders; no formal archaeological investigations were undertaken during this quarrying however numerous burials (both cremations and inhumations) of probable Iron Age, Roman and Anglo-Saxon date were recorded. One of these quarries lies a short distance to the south-east. Recent archaeological evaluation of a proposed development site on the north-west side of Marlborough Road has demonstrated the presence of a Bronze Age barrow and a substantial number of later grave cuts (most likely of Anglo-Saxon date) clustering around this monument. A further possible Bronze Age barrow has been recorded to the north-east of the site.
- 2.36 Between 1984 and 1989 the Dover Archaeological Group undertook excavations on the site of the Walmer Way housing development which lies to the south-east of the proposed development site. More than 500 individual archaeological features were identified which dated from the Neolithic (c. 3000 BC) to the post-Roman period (c. AD 1400). Some 132 burials were also excavated. One of the graves previously excavated was the Iron Age 'Mill Hill Warrior' who was buried with a sword, shield and crown (now displayed in the British Museum).
- 2.37 Given the significance of the site, KCC Archaeology have made the following recommendation:

"As outline consent being sought with all matters reserved, any archaeological field evaluation works are carried out prior to the submission of any reserved matters submission. This is so that the future layout of the development can be informed by the results of the archaeological evaluation".

In light of KCC Archaeology comments, a pre-commencement condition would be attached in the event of grant of permission.

#### Developer Contributions

- 2.38 KCC have advised that the application would place additional demand on their facilities and services, for which there is currently insufficient capacity. Consequently, they have requested that the following contributions are secured in order to deliver increased capacity to meet the additional demand that the development would generate:
- Secondary Education - £40860
  - Community Learning - £147.78
  - Youth Service – £589.50
  - Libraries - £499.05
  - Social Care - £1321.92
  - All homes to be built to wheelchair accessible and adaptable standard in accordance with Building Regs Part M4(2).
- 2.39 The applicant has confirmed that they would be willing to meet these requests, which will need to be secured by legal agreement, should permission be granted. It is considered that the above contributions are CIL compliant. In each case a specified project has been identified and is demonstrably 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.

### Other Material Considerations

- 2.40 The principle of the development accords with the development plan. In such circumstances, permission must be granted unless material considerations indicate otherwise.
- 2.41 An important material consideration is the NPPF, which must be carefully considered to determine whether it provides justification to depart from the development plan. The relevant issues within the NPPF have been addressed within the corresponding sections of this report and so will not be repeated in detail here. These sections have concluded that the impacts of the development do not give rise to any harm or harms which would indicate that permission should be refused.
- 2.42 The NPPF confirms the government's objective to significantly boost the supply of homes, including the provision of a range of housing to meet different needs. Whilst the council can currently demonstrate a five-year housing land supply, the council have delivered 80% of the homes needed over the past three years. The site lies in a location which is wholly consistent with the NPPF's aim to steer development towards sustainable locations, where future occupants can reach (and provide support for) facilities and services, including public transport.
- 2.43 The site is located within the settlement confines of Deal, which is identified as the 'Secondary focus for development in the District; suitable for urban scale development'. The site is well linked to all the facilities and services by footpaths. As such, it is considered that the site is well related to existing facilities and services, such that the need to travel is decreased whilst the use of more sustainable forms of transport is realistic. These conclusions add weight in favour of the development.
- 2.44 The NPPF encourages the development of under-utilised land. Given that the site has not been in active use for several years, there is a sense in which it is under-utilised which weighs in favour of the proposal.
- 2.45 The development would provide a short term, transitory, economic benefit by providing employment during the construction phase. The development would provide housing which plays a role in facilitating economic growth. The development would also provide a modest increase in the local population, which would produce a corresponding increase in spending in the local economy.
- 2.46 In terms of the social role, the proposal would contribute towards the supply of housing and would accord with the aim of significantly boosting the supply of housing. The development would not cause significant harm to the character and appearance of the area, subject to conditions and a S106 legal obligation. The development would also be in an accessible location, close to local facilities and services, reflecting the need and support health, social and cultural well-being. The development would increase the use of Magness Road and Marlborough Road however, it is concluded that the impact of additional traffic movements would not warrant refusal. The development would result in the quantitative loss of Open Space. Whilst this space has not been actively used for several years, it has the potential to make good deficiencies in the future, (albeit there is no evidence that the site will become publicly accessible in the absence of this development). However, the

application proposes to compensate for the quantitative loss of open space through qualitative benefits, providing accessible green space and Local Play Space.

- 2.47 In terms of the environmental role, the proposal would not cause significant impacts to the character of the area. The development would be visible along the access and in glimpse views between buildings, whilst the access itself would be plainly visible. However, within an urban context, this would not be harmful. Views of the site would be achievable in long range views from Ellens Road however, it is not considered that this impact would be significantly harmful. The development would not cause significant harm to ecological interests and would include some enhancements, which will be secured by condition.
- 2.48 Overall, it is considered that there are a number of benefits and only limited disbenefits to the scheme and that in the round, the proposal is considered to be a sustainable form of development that accords with the objectives of the NPPF.

### **3. Conclusion**

- 3.1 The site is located within the settlement confines of Deal, which is identified as the 'Secondary focus for development in the District; suitable for urban scale development' in the District. The principle of the development is therefore supported by the development plan.
- 3.2 The development would provide 9 dwellings in a sustainable location, close to the facilities and services of Deal. The development would also secure the public use of part of the site. It has been concluded that the qualitative benefits of the accessible open space proposed on site provide at least the same quality and equivalent community benefit as the existing site. Whilst the development would increase the number of vehicles using Magness Road and Marlborough Road, the additional vehicle movements generated by the development would not justify the refusal of the application. The development is acceptable in all other material respects, subject to conditions and obligations.
- 3.3 The development accords with the objectives of the development plan and NPPF and is therefore recommended for approval.

### **g) Recommendation**

- I SUBJECT TO a Section 106 legal agreement being entered into to secure the necessary planning contributions and provision, retention and maintenance in perpetuity of the amenity open space (including an equipped children's play area and Accessible Green Space) PLANNING PERMISSION BE GRANTED, subject to conditions to include:
- (1) Approved site plan clearly showing the area shaded in green which would be retained for the purposes of landscaping and provision of open space (LAP and accessible amenity green space). (2) Approval of the details of the layout, means of access, scale, landscaping and appearance (hereafter called "the Reserved Matters") (3) Application for approval of the Reserved Matters shall be made to the local planning authority not later than the expiration of 3 years from the date of this permission (4) The development hereby permitted shall be begun not later than the expiration of 2 years from the date of approval of the



last of the Reserved Matters to be approved. (5) The development to which this permission relates must be begun not later than whichever is the later of the following dates : (a) the expiration of two years beginning with the date of the grant of outline planning permission. (b) the expiration of one year from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matters to be approved. (6) Ecological/biodiversity mitigation, enhancement and management plan (7) Landscaping scheme and landscaping management plan (8) Details of LAP and Amenity Green Space (9) Construction Management Plan (10) Submission of details of the highway alterations in Marlborough Road prior to the commencement (in accordance with KCC's comments) (11) Protection of Trees and Hedges (12) Hard landscaping works and boundary details/enclosures (13) refuse storage (14) cycle storage (15) Programme of archaeological works (16) details of surface water drainage infrastructure (17) details of foul water drainage infrastructure and verification to be provided in accordance with a timetable to be agreed (18) full details of all lighting, including the lighting for the amenity space, car parking and residential areas (19) details of electric vehicle charging points (20) installation of broadband.

- II Powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions and to agree a S106 agreement in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Benazir Kachchhi