

- a) **DOV/20/01237 – Erection of a four-storey building incorporating 40no. flats with new vehicle access, parking and landscaping (existing buildings to be demolished)**

**Site Adjacent Graham Plumbers Merchants, Construction House, Coombe Valley Road, Dover CT17 0EN**

**Reason for report:** Number of contrary views.

- b) **Summary of Recommendation**

Planning Permission be Granted subject to completion of a Section 106 agreement

- c) **Planning Policy and Guidance**

Planning and Compulsory Purchase Act 2004

- Section 38(6) – requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

Draft Dover District Local Plan

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, 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. However, some of the background evidence collected as part of the plan-making process is relevant to consideration of this application, as discussed below.

Core Strategy Policies

CP1, CP4, CP6, DM1, DM2, DM5, DM11, DM13.

Land Allocations Local Plan

DM27 and LA8

National Planning Policy Framework (NPPF) (July 2021)

The most relevant parts of the NPPF are:

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are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless:

- i. 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 7); or
- ii. 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.

57 – Planning obligations must only be sought where they meet all of the following tests:

- 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.

58 – Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.

Paragraphs 60, 62, 65, 98, 110, 111, 112, 119.

120 – Planning policies and decisions should (amongst other things):

c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;

d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure)

123 – 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 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.

Paragraphs 124, 126, 130, 167, 169, 180, 183, 185, 187, 194.

The National Design Guide and Kent Design Guide (KDG)

d) **Relevant Planning History**

None relevant.

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

Dover Town Council – Support, subject to the issues raised by KCC Highways and Kent Police for it to work well.

Southern Water – (Initial response 11/01/2021): Our investigations indicate that Southern Water can facilitate foul and surface water sewerage disposal (surface water flow of 0.60 l/s at manhole reference TR30428452) to service the proposed development. Southern Water requires a formal application for any new connection to the public foul and surface water sewer to be made by the applicant or developer.

A pre-commencement condition was requested, requiring submission of details of foul and surface water disposal.

(Further response 9/04/2021): Southern Water has undertaken a desk study of the impact of the proposed development on the existing public surface water network. The results of this assessment indicate that with connection at the “practical point of connection” as defined in the New Connections Services implemented from 1st April 2018 that there is an increased risk of flooding if the proposed surface water run off rates are to be discharged at proposed connection points.

It is the responsibility of the developer to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order:

- a) Adequate soakaway or infiltration system
- b) Water course
- c) Where neither of the above is practicable; a sewer

Alternatively, the developer can discharge surface water flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the surface water system. You will be required to provide a topographical site survey and/or a CCTV survey showing the existing connection points, pipe sizes, gradients and calculations confirming the proposed surface water flow will be no greater than the existing contributing flows.

(Further response 3/05/2021): The additional details provided by the applicant states that the proposed surface water flows from the development are reduced from the existing contributing flows. This discharge can be permitted, if proven to be connected and it is ensured that there is no overall increase in flows into the surface water system. The applicant will be required to provide a topographical site survey and/or a CCTV survey showing the existing connection points, pipe sizes, gradients and calculations confirming the proposed flow will be no greater than the existing contributing flows.

KCC LLFA – Following initial request for submission of a surface water drainage strategy:

Since our last consultation response, a letter has been produced by VKHP Consulting to answer our queries in relation to the two options presented to manage surface water runoff. It is understood from the letter that infiltration testing at this stage is not viable as the site is not currently under the applicant’s ownership. It is welcomed however that an apparent CCTV survey has been carried out and has identified two existing surface water outfalls from the site. These two outfalls appear to connect into Southern Waters surface water sewer under Coombe Valley Road.

In light of this, the LLFA is more confident that a strategy can be delivered because an existing outfall is present to serve a future development. As such, we lift our earlier objections and would seek the LPA attaches the following planning conditions should consent be granted.

The first requested condition is a pre-commencement condition for the submission of a detailed surface water drainage scheme, including that: *The detailed drainage scheme shall demonstrate that due consideration has first been given to the possibility of utilising infiltration techniques and that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. Should the use of infiltration prove to beyond being reasonably practical then any surface water leaving site shall not exceed a discharge rate of 5l/s for all rainfall events.*

The second requested condition is for a verification report to confirm that the scheme has been constructed as approved.

KCC Highways – (initial response 8/01/2021): Holding objection on the basis of the following issues:

1. Questioned the basis of the trip generation figures used in the Transport Assessment and requested a revised assessment.
2. A safety audit and designer's response to any issues raised is required for the proposed access arrangements. The proposed access should also provide suitable facilities to enable pedestrians to safely cross the new access, including suitable visibility to drivers entering and leaving the site.
3. The vehicle swept paths in the TS are noted, however clarification is required on the largest vehicle which currently and will in future visit the retained plumbers merchants, particularly in relation to delivery of stock which may require an articulated vehicle. Parking arrangements for such delivery vehicles should also be shown to ensure they do not obstruct access and customer parking. Allowance should also be made for an 11.3 metre refuse vehicle servicing the proposed flats. The swept paths also show that land outside the current application red line is required for vehicles servicing the proposed flats to turn around. This land should therefore presumably be included within the red line so that the turning facilities could be secured by condition.
4. The amount of car parking proposed for the flats is acceptable and in accordance with Local Plan policy DM13 bearing in mind the location of the site, access to public transport, and parking controls in place on the streets near the site. However, parking within the initial section of the access road should be prevented so that access is not obstructed, and details of such measures should therefore be provided. Lay-by spaces should also be 6 metres long. Clarification is also required on the proposed allocation of parking spaces.
5. It appears 8 parking spaces are retained for the plumber's merchants, however no information has been provided to demonstrate that this is sufficient. A parking demand and accumulation assessment is therefore required to inform the amount of parking required.

Further responses were received on 9/03/2021 and 26/03/2021 in response to further information provided by the applicant.

(Final response 29/07/2021):

The proposals are unlikely to have a severe impact on the capacity of the highway network, bearing in mind the residual trip generation of the proposals and taking into account the potential trip generation from the existing permitted uses on the site.

The proposed access arrangements are acceptable, and have been subject to an independent safety audit. They offer an improvement over the existing situation with the provision of dropped kerbs and tactile paving for pedestrians.

The amount of car parking proposed for the flats is acceptable and in accordance with Local Plan policy DM13 bearing in mind the location of the site, access to public transport, and parking controls in place on the streets near the site. However, parking within the initial section of the private access road should be prevented so that access from the highway is not obstructed, and details of such measures should therefore be secured by condition.

Taking all of the above into account I would not recommend refusal on highway grounds subject to the following being secured by condition:

- Submission of a Construction Management Plan before the commencement of any development on site to include the following: (a) Routing of construction and delivery vehicles to / from site (b) Parking/turning areas for construction and delivery vehicles and

site personnel (c) Timing of deliveries (d) Provision of wheel washing facilities (e) Temporary traffic management / signage (f) Access arrangements

- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of measures to prevent parking within the first 25 metres of the internal access road from the junction with Coombe Valley Road, in accordance with details to be submitted to and approved by the Local Planning Authority.
- Provision and permanent retention of the vehicle turning facilities shown on the submitted plans prior to the use of the site commencing.
- Use of a bound surface for the first 5 metres of the access from the edge of the highway.
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.
- Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.
- Closure of the existing access and reinstatement of the footway prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.
- Provision and maintenance of 1 metre x 18 metres pedestrian visibility splays into the site from each side of the pedestrian crossing point at the access with no obstructions over 0.6m above footway level, prior to the use of the site commencing.

I would also request consideration be given to the provision of electric vehicle charging points to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection).

Informatives are requested relating to the potential need for relocation of street lights and the need for Highway Authority consent for works within the highway.

Kent Fire and Rescue Service – I can confirm that on this occasion it is my opinion that the off-site access requirements of the Fire & Rescue Service have been met.

On-site access is a requirement of the Building Regulations 2010 Volume 1 and 2 and must be complied with to the satisfaction of the Building Control Authority who will consult with the Fire and Rescue Service once a building Regulations Application has been submitted.

KCC Archaeologist – (Initial response 19/01/2021): The site lies within an area of multi-period archaeological potential and c.30m from the location on the Kent Historic Environment Record of a Roman cemetery discovered in the mid-19th century. The exact location of the discovery is not known and could be closer to or at the site of the proposed development.

The buildings at the site which are proposed for demolition are on the same general alignment as historic buildings recorded on the 1st Ed. OS mapping and subsequent iterations. I have not visited the site and the photographs within the Contamination Risk Assessment report (GEI, 2020), although useful do not make clear whether there are historic buildings at the site which should be considered for recording and/or preservation and re-use. Though a welcome recognition of archaeological potential I do not agree with the proposed watching brief by construction staff (Page 13 of the GEI report) as any such work must be undertaken by suitably trained professional archaeologists.

In light of the heritage and archaeological interest of the site and noting the lack of an Archaeological Desk Based Assessment, I recommend that in the event that planning permission is granted that a condition is applied to any forthcoming consent requiring the applicant, or their agents or successors in title, to secure 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. In the event that a decision is delayed or refused the applicant should be asked to submit an Archaeological Desk-Based Assessment for the site as required by the NPPF.

No further comments received in response to re-consultation (1/03/2021) following receipt of the Archaeological Evaluation Report from the applicants. This report proposes the excavation of trial trenches and the subsequent preparation of an Impact Assessment to describe the archaeological potential of the site and the likely impact of the proposed development.

KCC Economic Development – Has requested the following developer contributions:

- Secondary education: £31,780 towards expansion of secondary school places in Dover District
- Community learning: £656.80 towards equipment and resources for the additional learners at Dover Adult Education Centre
- Youth Service: £2,620 towards additional resources for the Dover Youth Service
- Library bookstock: £2,218 Towards additional services and stock to be made available at Dover Library
- Social care: £5,875.20 towards Specialist Care accommodation within the District of Dover
- Waste: £2,178.80 Towards new works at Dover HWRC to increase capacity.

A condition is also requested requiring the installation of high-speed broadband connections.

NHS Kent And Medway CCG – Has requested a developer contribution of £26,280 towards refurbishment, reconfiguration, improvements and/or extension of Primary Care Health facilities in Dover.

This proposal will generate approximately 73 new patient registrations based on the dwelling mix provided. The proposed development falls within the current practice boundaries of a number of practices within the Dover Town 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.

Kent Police Designing Out Crime Officer – Has provided detailed advice on security and related issues, including recommended security measures for communal external doors and garden areas, car parking, bike stores, mail delivery and external lighting. Recommendations are also made regarding site security during the construction phase.

DDC Environmental Health – No objections, but various conditions are recommended with regard to potential contamination, noise, and a construction management plan, as follows:

I agree with the phase 1 contaminated land report submitted in support of this application. As suggested by the report, an intrusive study is required in order to identify possible contaminants that may have been left from the site's historic uses. A suite of conditions is put forward, requiring detailed investigations and risk assessment, the preparation and implementation of any necessary remediation measures, and the provision of a

validation report to confirm the effectiveness of the remediation. A condition is also recommended to address the possibility of unforeseen contamination.

I accept the acoustic report submitted in support of the application, (reference DP/66201710/VV). The following condition should be applied if permission is granted, to ensure appropriate noise mitigation and minimise adverse impact to future residents, as advised by the report:

*Acoustic glazing and ventilation to be installed for the different facades of the proposed development, as specified in Appendix D6 of the acoustic report conducted by MLM Consulting Engineers Limited (reference DP/66201710/VV). In order to protect residents from noise emanating mainly from Coombe Valley Road.*

I suggest the application of a condition requiring the submission of a Construction Management Plan to deal with the suppression of dust and noise from the site during construction.

DDC Housing Development Manager – The affordable statement proposes 12 affordable units, which is in line with policy requirements. There is a need and demand for 1 and 2 bedroom flats in Dover, and the 12 flats proposed at this development would contribute towards meeting this need. It is advised that the shared ownership properties should be 2 bedroom flats, as there is a higher demand for this size of accommodation for low cost home ownership.

DDC Natural Environment Officer – (Initial response 6/05/2021) (Summarised): I have reviewed two ecological reports submitted in support of this application.

1. Preliminary ecological appraisal dated December 2020
2. a bat survey report dated November 2020

The bat survey report dealt specifically with the buildings on the site and assessed those buildings for their suitability to provide bat roosting opportunities. The buildings varied in their classified suitability from low to high potential. Building 6/7 was confirmed, through DNA analysis, as a brown long eared bat roost. The report makes very clear in the executive summary that nocturnal survey work for bats (dusk and dawn surveys) are required to establish whether the other buildings support bat roosts and to characterise the roost within building 6/7.

Surveys and mitigation strategies for bats should generally not be made a requirement of a planning condition or be undertaken after permission has been granted.

In summary therefore, this application cannot be determined until all of the recommended bat survey work has been undertaken.

In determining applications affecting European protected species such as bats, the LPA must apply the three legal licensing tests before determination of an application:

1. The proposed development must meet a purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequence of primary importance for the environment
2. the authority must be satisfied that there is no satisfactory alternative
3. the LPA must be satisfied that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

I can only suggest that the applicant follows the advice of their consultant and commissions the required bat survey work.

Private representations:

36 objections received, raising the following issues:

- Insufficient car parking (29 spaces proposed for 40 flats); there is already intense pressure for on-street parking in the locality, and this will make matters worse, potentially leading to confrontations
- Overlooking and loss of privacy to properties in Victoria Street and Coombe Valley Road (especially from the third and fourth floors)
- Moving the access closer to the traffic light junction with London Road will be unsafe and cause accidents; concern over impact on emergency vehicles using this corner; emerging traffic will have to cross three lanes
- Loss of daylight and sunlight
- Four storeys is too high and will dwarf neighbouring properties; two storeys would be better
- Size of the building is not in keeping with nearby developments/out of scale and proportion
- The design is out of keeping, as are the proposed external materials
- Electric vehicle charging points should be provided
- There must be a better use for the land
- Concern over capacity of water/gas/electricity services
- Loss of views of the Castle and hills
- Increased noise at evenings and weekends
- Lack of consultation
- Loss of property values
- Disruption during building phase
- Over-intensive development
- Additional traffic and rat-running
- Concern over the effect of demolition of safety/integrity of boundary wall with Herbert Street
- Not opposed to redevelopment of the site/removal of unsightly buildings, but this is not the right scheme

Two further representations received, raising neither objection nor support:

- In favour of removing overhanging trees to Victoria Street properties
- In favour of demolition of empty buildings
- The retained warehouse building on London Road will continue to receive deliveries from artics, and this should be accommodated, including sufficient space for reversing
- Parking access off the access road will cause problems for delivery lorries

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

1.1 The application site has an area of around 0.24ha and lies to the rear (south-west) of the former Graham's Plumbers' Merchants retail unit at the junction of London Road and Coombe Valley Road. It has a frontage to Coombe Valley Road of about 28m (but broadens out to about 40m further into the site) and a depth of between 60m and 66m. A large part of the site is currently a large, flat, open, hard-surfaced yard that appears to have previously been used for outdoor storage of building materials and vehicle parking. Along the south-western side of the site, running from front to rear, is a range of buildings of mixed size and design that again appear



to have been used in conjunction with the builder's merchant's use; this includes a two-storey, flat roofed office building on the site frontage with Coombe Valley Road and a tall, pitched-roof storage building further back into the site, as well as a random collection of lower buildings. There is a main vehicular access off Coombe Valley Road broadly in the centre of the site frontage, and a narrower, disused access on the western boundary adjacent to the houses fronting the road.

- 1.2 To the north-east of the site is the existing retail unit which would be retained, albeit with a reduced servicing yard between that building and the application site. South-east of this are mainly residential properties fronting London Road, the rear gardens of which back onto the application site. To the west of the site are terraced houses fronting Coombe Valley Road and beyond this the junction with Victoria Street. About a dozen houses on the east side of Victoria Street back onto the application site with the ends of the rear gardens being about 1m above the level of the application site; there are tall, mature trees within the application site close to this boundary. At the rear of the site is a tall retaining wall which forms the boundary with properties in Herbert Street; the difference in ground levels at the boundary varies, but the submitted cross-sections show it to be between about 2.0m and 2.7m, with a wall of between 1.7m and 3.5m on top of this. More widely, the traffic-light controlled junction with London Road is about 35m north-east of the site boundary. On the opposite side of Coombe Valley Road is a three-storey residential development. West of the site, the road rises slightly before going under the railway bridge.
- 1.3 It is proposed to demolish all the existing buildings and erect a part 3/part 4-storey building to accommodate 40 flats (12 x 1-bed and 28 x 2-bed). The building would occupy the western part of the site, with the front elevation be set back about 3m from the front corner of the neighbouring houses to the west. The length of the building from front to rear would be about 58m with the maximum width being 19m. The western elevation would be between 7m and 8m from the rear garden boundaries of properties in Victoria Street and the southern end about 2m from the boundary with Herbert Street. The top floor would be recessed back from the rest of the building on the front part, closest to the road, and to a lesser extent at the rear. Along the eastern and western sides of the building, the top floor is raked back (somewhat akin to a mansard) to reduce the overall bulk and potential for overlooking.
- 1.4 The building would have a curved profile adjacent to the site entrance and a flat roof. It would largely be of brick construction, with a number of vertical, recessed, standing-seam metal panels, broadly reflecting the location of the stairwells. On the front part of the site, and along the eastern elevation, the windows to living rooms and bedrooms on the ground, first and second floors are in shallow inverted bays, which are grouped to provide a series of vertical features and create rhythm along the façade. On the western elevation, all the upper floor windows serving living accommodation are in features that project at an oblique angle to the façade of the building, in order to reduce the opportunity for direct views towards the Victoria Street properties.
- 1.5 A parking area providing 28 car parking spaces and two motorcycle spaces is shown on the eastern part of the site. The intention is to allocate one space to each of the two-bedroomed flats, but the actual allocation regime could reflect the needs of individual occupiers. The existing vehicular accesses would be closed,

and a new access created towards the eastern boundary of the site. This will also provide access to the retained retail unit, which is not within the application site and not under the applicant's control. A gated private amenity area, with planting, is shown at the rear of the building, between the building and the boundary to Victoria Street properties. Bicycle storage racks will also be provided here.

## **2. Main Issues**

2.1 The main issues are:

- The principle of residential development, including the loss of employment land;
- Impact on residential amenity (particularly privacy and outlook);
- Design and impact and impact on the character of the area;
- Highways, access and parking;
- Drainage, contamination and archaeology;
- Ecology impacts;
- Developer contributions

### **Assessment**

#### Principle

- 2.2 The starting point for decision making is Section 38(6) of the Planning and Compulsory Purchase Act 2004. This states that regard is to be had to the development plan; for the purpose of any determination to be made under the Planning Acts, the determination must be in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Policy CP1 states that the location and scale of development in the District must comply with the Settlement Hierarchy which informs the distribution of development in the Core Strategy. The site lies within the defined urban confines of Dover, which is identified as the major focus for development in the District, suitable for urban scale development. Development on this site is therefore also consistent with policy DM1, which seeks to resist development outside confines.
- 2.4 Paragraph 11 of the NPPF states that development which accords with an up to date development plan should be approved without delay whilst, where there are no relevant development plan policies or where the most important policies are out of date, permission should be granted unless policies in the NPPF for protected areas or assets provide a clear reasoning for refusing the development or where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in NPPF as a whole. A footnote confirms that whether policies are out of date also includes instances where the local planning authority cannot demonstrate a five year housing land supply or where the delivery of housing falls below 75% of the housing requirement in the previous three years.
- 2.5 It is considered that policies DM1 and DM11 are the 'most important' policies for determining this application. For completeness, the tilted balance is not engaged for any other reason, as the Council has a demonstrable five year housing land supply and has not failed to deliver at least 75% of the housing delivery test requirement (delivering 80%).

- 2.6 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 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.
- 2.7 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. DM11 seeks to resist development outside settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. Again, as the site is 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 close to public transport links.
- 2.8 Policy DM1 is out-of-date. Whilst DM11 is, to a degree, in tension with the NPPF it is not considered to be out-of-date. Given how critical DM1 is to the assessment of the application, it is considered that the basket of 'most important policies' is out of date and the 'tilted balance' described at paragraph 11 (d) of the NPPF is engaged. As the site is currently in an employment-related use, it is also necessary to consider the principle of residential use in the context of policy DM2. This says that permission for changes of use or redevelopment of land or buildings currently or last in use for employment purposes will only be granted if the land or buildings are no longer viable or appropriate for employment use. However, this is not entirely consistent with statements in the NPPF. For example, paragraph 119 promotes the effective use of land in meeting the need for homes, and paragraph 120 supports the development of under-utilised land; specific reference is made to the potential for building on service yards and car parks; it lends substantial weight to the use of brownfield land for homes and taking the opportunity to remediate derelict land. Paragraph 123 encourages a positive approach to applications for alternative uses of land that is not allocated for a specific purpose, and reference is made to using retail and employment land for homes, where this would not undermine key economic sectors or sites.
- 2.9 The current site is not regarded as a key site in terms of employment land supply. Indeed, as the applicant has pointed out, the retail unit that actually provided the basis for most of the employment on the wider site, will remain. Redevelopment would provide the opportunity for regeneration and visual enhancement. The most recent assessment of employment land availability (EDNA 2017, which forms part of the evidence base for the emerging Local Plan) did not identify an overriding need to identify more land and concluded that the emphasis should be on providing quality sites, rather than focusing on quantity. In that regard, this site could be

seen as an old-fashioned, low quality industrial site that, in its current state, is no longer attractive or fit for purpose.

- 2.10 This also needs to be seen in the context of the wider aspirations for the Coombe Valley area generally. Although this is not one of the sites specifically identified for residential development in policy LA8, it is within the boundary of the wider area identified in figure 3.4. Redevelopment of this site for residential use would help promote regeneration in the wider area, in accordance with the objectives set out in the LALP, especially given that it provides the opportunity for significant and meaningful visual upgrading on a prominent site at the entrance to the area.

#### Residential amenity

- 2.11 The existing properties most likely to be affected by the proposed development are those fronting Coombe Valley Road immediately to the west of the site and those in Victoria Street that back onto the site. Those at the northern end of Herbert Street and on the western side of London Road (to the south of the retail unit) that back onto the site may also be affected to some degree. There are also residential properties on the northern side of Coombe Valley Road.
- 2.12 The principal issues to consider in terms of amenity are potential loss of privacy/overlooking, loss of daylight and sunlight, loss of outlook, overbearing effect, and noise from the proposed development. The main policy reference points are NPPF paragraphs 119, 129 and 139, which talks about promoting health and well-being and promoting a high standard of amenity for existing and future users. It is also appropriate to consider the amenity of future occupiers of the proposed development.
- 2.13 At the front of the site, the new building will butt up to the flank elevation of no 1 Coombe Valley Road and be set back about 3m from the front elevation; there are no windows in this elevation. The part of the building immediately adjacent to the boundary will not extend beyond the rear of the neighbouring dwelling but will be cut back in a similar manner to the recesses that are typical of the surrounding houses. The main rear (south-western) elevation of the proposed building begins about 2m away from the flank boundary of no.1 and at this point is three storeys (about 9m) high. The height increases to four storeys some 9m further to the south-east, which is just beyond the end of the rear garden to no. 1. The building therefore sits to the north-east of no.1 and its rear garden, and then tapers away to the south-east.
- 2.14 The first property in Victoria Street is a commercial building that does not back directly onto the site. The houses on the west side of the street are two-storey terraces of typical Victorian layout, with original two-storey projections and alternate "wells" set back; some houses have been extended further to the rear. Their gardens are between about 8m and 9.5m long, measured from the end of the original projections, extending by a further 4m in the recessed "wells". The new building will be about 7.2m from these rear garden boundaries (at the southern end) and 8.2m (at the northern end), meaning that the wall to wall distances (measured from the houses' rear projections) will be between 16m and 17m; clearly, into the recesses this will be 4m more. This part of the new building will be four storeys, or about 12.2m above site ground level; the submitted sections show this ground level to be about 1m below the level of the gardens (although this is likely to be a minimum level difference, as site inspection reveals that it does vary slightly, as the gardens and houses are not all at consistently the same level, and some of the houses are stepped up from their gardens, as indicated by the

comparative levels of the front elevations along Victoria Street). The new building lies to the north-east of all the houses in Victoria Street.

- 2.15 As mentioned previously, all the windows at first, second and third floor (and some on the ground floor) of the elevation facing towards Victoria Street are set within angled projections that prevent direct views towards the Victoria Street properties; this has been done with the aim of minimising the ability to look directly into these properties and to reduce the impression of being overlooked; in addition, all the rooms that these windows serve are shown as bedrooms to the two-bedroom flats (with the exception of kitchens for the southernmost flats); they are therefore not intended to be primary living spaces. The only windows that face directly towards the houses are those in stairwells. Although (as some of the objectors have pointed out) it would still be possible to gain some views into the gardens, the direct line of sight would be to a property further up the street, at an angle and at a distance of about 14m to the very ends of the gardens. The likelihood of this happening on a regular basis is also reduced if one considers where an occupier of the flat would need to stand in the room in order to obtain such a view.
- 2.16 In the light of these window arrangements, the distance between the houses and the new building (about 16m) is also acceptable in terms of outlook and daylight implications. Although the flats will be about one-and-a-half storeys taller than the houses, the top floor is sloped back to reduce the overall impact. There will be some loss of sunlight to the houses (and their gardens) but the orientation means that this will be limited to the first part of the morning for most of the year. Members will be aware that under Planning legislation there is no "right to a view".
- 2.17 Because of their relationship to the layout of the site, the properties in Herbert Street and London Road, and those on the north side of Coombe Valley Road, should not experience any significant impact in terms of overlooking or loss of outlook or light.
- 2.18 The other amenity impact that has been raised by nearby residents relates to noise, particularly in the evenings and at weekends. There is likely to be some change in the noise environment compared to that currently experienced, but there is no reason to suppose that any noise from the new flats will be any different from that emanating from most residential properties, especially as the rooms on the Victoria Street side of the building are, in the main, likely to be occupied as bedrooms. It is also pertinent to note that, although this site may have been unoccupied for some time, there do not appear to be any noise restrictions or restrictions on the hours of use in regard to the existing lawful use and, although some of the buildings are in a poor state of repair, the site could be brought back into use for a purpose not materially different from that use at any time, without limitations on noise.
- 2.19 Turning to the amenities of the residents of the proposed flats, the Architect has confirmed that all the units will meet the Nationally Described Space Standards. An outdoor private amenity space is to be provided at the rear of the building, with seating and planting. The application is accompanied by an Acoustic Design Statement which assesses the internal noise environment for future residents. The site is affected by road traffic noise, principally from Coombe Valley Road but also from London Road, and the railway. It is recommended that mitigation measures including enhanced double glazing and acoustic laminated glazing be installed in certain rooms, principally those nearest the road frontage. The findings of the assessment and the recommendations are accepted by EHO, and a condition can be used to ensure the mitigation measures are installed.

### Design and visual impact

- 2.20 As Members may be aware, national policy advice on design has recently been updated in the revised NPPF (July 2021). The principal references are now in paragraphs 130 – 134. Developments should aim to function well and add to the overall quality of the area, be visually attractive, be sympathetic to local character and the surrounding built environment (while not preventing or discouraging innovation or change, such as increased densities), and create attractive, welcoming and distinctive places to live, work and visit.
- 2.21 The existing buildings on the site do not make a positive contribution to the visual quality of the locality; the office building at the front of the site does not relate well to its surroundings and the buildings to the rear of this are a mixture of designs and generally poor quality. Although the houses to the west and south of the site are generally of traditional design and form, there is more modern development to the north, and larger scale commercial development to the east, and further along London Road; as a result, the site is in a zone of transition and there is no single, clear set of reference points.
- 2.22 In terms of scale, although the building is mainly of four storeys, this has been reduced to three on the road frontage, to better relate to the neighbouring houses; at that interface, the roof of the new building will be 8.8m, 1.2m taller than the ridge of the first house. The fourth floor is set back 3.5m from the front of the building and adds a further 2.9m. The front corner of the building, adjacent to the site entrance, has a curved profile (as has the recessed fourth floor element) and a slightly raised elliptical roofline. In terms of the “long” elevations of the building, the repeated pattern of vertical, recessed bays, accommodating the inverted bay windows, provides a strong rhythm to the north-east elevation (which will be seen in views from Coombe Valley Road) and this will also provide shadow lines and visual interest. On the southwest elevation, a similar, but less obvious, rhythm is provided by the projecting features accommodating the angled windows. At the southern end of the site, the houses in Herbert Street are on much higher land, and this helps to offset the comparative scale of the old and new buildings.
- 2.23 There is no doubt that this will be seen as a significantly taller building than any currently on the site. The relationship to houses in Victoria Street has been discussed above. In terms of the principal public views from Coombe Valley Road, the opportunity has been taken to create what could become a “feature” corner building – a design tool that is advocated in both Kent Design and national design guidance. This is not only an appropriate statement for this otherwise relatively open, exposed site, but it also provides the sort of visual uplift that is aspired to in the LALP discussion of the Coombe Valley Area generally (in the background context to policy LA8).
- 2.24 Overall, it is considered that both the scale and the detailed architectural style of the building comprise an appropriate design approach for this site, and will result in significant improvement to the visual quality of the wider locality.

### Highways, access and parking

- 2.25 The main policy reference points are Core Strategy DM13 and NPPF paragraphs 110 – 112. The proposal includes the closure of the existing accesses to the site and the formation of a new access about 11m to the east of the existing main access. Within the site, an access road is to be formed, broadly parallel to the eastern boundary and extending to the rear of the site. 28 car parking spaces are shown (including two accessible spaces), sited on either side of the access; the

access is 6m wide where parking spaces are on opposite sides. Part-way along the access, a spur is shown, enabling vehicular access to the parking area at the rear of the retained retail unit.

- 2.26 DM13 advocates a design-led approach to car parking, based on the characteristics of the site, the locality, the nature of the proposed development and its design objectives. The parking spaces will be allocated to individual flats and, given the location of the site close to frequent bus routes and within walking distance of all the main facilities in the town, the number of spaces proposed is appropriate; this is also consistent with the approach adopted in the NPPF. Kent Highways also finds the parking provision acceptable.
- 2.27 The Highway Authority originally raised objection on a number of, mainly technical, issues, including the anticipated trip generation rates, the layout of the access at the point where it meets the main road, and turning facilities within the site. Following the submission of further information, the Highway Authority now accepts the trip generation rates used and is satisfied that the development is unlikely to have a severe impact on the capacity of the road network. The amended access layout is also acceptable, including the proposed visibility splays, and the Highway Authority considers the proposal to be acceptable subject to a range of conditions.
- 2.28 One issue that has involved further discussions with the Highway Authority concerned access arrangements for the retained retail unit. KCC questioned whether articulated vehicles could gain satisfactory access, should they need to in order to provide deliveries to the retail unit. It appears that that part of the former plumbers' merchant's site has been sold separately, and the apparent prospective occupier (a carpet company) has also raised this point. In response, the current applicant has put forward a number of points, including:

- The retail unit does own an access right to travel over part of the site under the terms of the land purchase, but this access right area is too small for an artic, large refuse vehicles, large lorries and large fire tender trucks
- The proposed access right being offered by the applicant gives the retail unit more area than they are legally entitled to - not large enough for an artic - but large enough for the other vehicles above, so they are providing a significant improvement on the legal right of access.
- In numerical terms they are increasing the legal access width off the highway from 5m to 6m and the width from the housing site to the retail site from 5m to 10m, which they describe as a "huge increase". One parking space has been omitted from the original scheme to facilitate this.
- KCC's assumption is based on a historic entrance size that is no longer legally possible.
- It is up to the retail unit operators to manage their deliveries using appropriately sized vehicles.

A further plan has been provided to clarify the comparison between the access allowed under the land purchase and what is currently being offered, and the Highway Authority's final comments (reproduced above) take account of this additional information. The HA has concluded that the access and turning arrangements are appropriate.

Drainage, contamination and archaeology

- 2.29 It is proposed that both foul and surface water be disposed of to the existing (separate) sewer systems. Foul drainage capacity is not considered to be an issue in this location. Considerable correspondence has taken place between the applicant's consultants, Southern Water and KCC as LLFA. Because the site is currently almost entirely hard-surfaced (and the applicant does not currently have access to carry out works) it has not been possible to carry out soakage tests for disposal into the ground; the discussion that has taken place has centred on the capacity of the surface water sewer and how the site is currently drained. SW has now accepted that it is likely that the existing rate of discharge from the site is greater than will be the case following development, and on that basis it is acceptable for the new development to use the existing sewer (subject to further investigations to confirm the position). Infiltration would still be a preferable solution, if it can be achieved. Conditions are proposed requiring the submission of a detailed scheme. KCC is content that, on this basis, the development will not increase the risk of flooding elsewhere.
- 2.30 For similar reasons, it has not been possible to carry out detailed investigations into whether there may be existing ground contamination. The Phase 1 report submitted with the application recognises that there may be contamination from previous uses and recommends intrusive investigations take place. This approach is accepted by EHO and appropriate conditions are recommended.

#### Ecology impacts

- 2.31 NPPF paragraph 174 says that planning decisions should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity. Paragraph 180 says that when determining applications, if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for, permission should be refused.
- 2.32 The preliminary ecological appraisal and bat survey submitted with the application identified that some of the buildings were being used by bats and that there was a need for further surveys. Those surveys have now been carried out and the summary findings are as follows:

*During the survey undertaken in November 2020, a very small number of bat droppings, from a brown long-eared bat were discovered in Building no. 6/7). Additionally, a small number of moth wings, probably dropped by a feeding long-eared bat, were discovered in the old flint barn, Building no. 4. It was therefore confirmed that the site is used by bats, albeit at an apparently low level. It was advised that further bat surveys would be required, at an appropriate time of year, to establish the level of bat use.*

*During the survey undertaken on 15th May 2021, one common pipistrelle was seen emerging from the east side of the barn, B4. No fresh evidence of bat use was found in any of the buildings and no overnight activity was recorded inside the barn. No bats were seen during the dawn re-entry survey.*

*During the repeat survey, undertaken on 16th June a single common pipistrelle emerged from Building 3, the open fronted store but also showed some interest in Building 2. Several passes from common pipistrelles were heard at the west of the site, with one or two bats arriving at the site, from elsewhere.*

*It is therefore confirmed that the site is used as a day/night roost by very small numbers of bats of two common species. No evidence of a breeding colony*



*of bats has been found. Because bats and their roosts are protected by law, a Natural England Bat Mitigation Licence is required to allow the proposed demolition to proceed. A 'low impact' or Bat Class Licence will be appropriate for this site. A licence cannot be applied for until Planning Consent has been granted, but appropriate mitigation and compensation or enhancement measures should be agreed at an early stage in the planning process.*

- 2.33 The Report goes on to set out potential mitigation measures; these include no demolition to take place during the hibernation season (although no evidence of the site being used for hibernation has been found), demolition work on the relevant elements of the building only to be carried out under the supervision of a bat consultant, and temporary and permanent provision to be made for roosting bats both during the building works and following implementation.
- 2.34 These mitigation measures are appropriate for the level of harm/disturbance identified by the surveys, and are sufficient to meet the requirements of NPPF paragraph 180. Conditions are recommended to address these issues. Members will note that the applicant will still require a separate Licence from Natural England, without which no demolition may take place.

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

- 2.35 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.
- 2.36 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.
- 2.37 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.
- 2.38 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.
- 2.39 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 with a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour at Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education).
- 2.40 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.

#### Developer Contributions

- 2.41 KCC has requested contributions towards a number of activities and projects totalling £45,328.80, as set out earlier in this report. Members will be aware that DDC has questioned the evidence base which seeks to justify the contribution towards Waste facilities; removing that reduces the overall contribution to £43,150. The NHS CCG has requested a contribution of £26,280 towards upgrading GP facilities in the Town.
- 2.42 Policy DM5 requires that for schemes of more than 15 dwellings, on-site provision of affordable housing should be provided amounting to 30% of the dwellings proposed. However, the evidence base prepared in connection with the emerging Local Plan (The Local Plan Whole Viability Study) has concluded that schemes within the Dover Urban Area are not likely to be sufficiently viable to provide affordable housing. Although no formal provision of affordable housing is proposed, the applicant has sought to point out that in practice some of the units will fulfil an affordable housing need because of the type of units and the market they are aimed at.
- 2.43 In addition, pursuant to policy DM27, developments of five or more dwellings are required to provide or contribute towards the provision of open space. In accordance with the adopted formula, the required contributions in this instance are:
- Accessible green space: £4,812.93
  - Outdoor sports facilities: £17,942.28
  - Children's Equipped Play Space: £17,333.14
  - Allotments/Community Gardens: £80.92
  - Total: £40,169.27

The amount payable under the SPA and Ramsar Mitigation Strategy is £2,358.36

- 2.44 The total contributions and Habitat Mitigation that might be payable therefore comes to £111,957.63, plus affordable housing.
- 2.45 The applicant has put forward a case that this level of contributions is not justified in this instance and that the viability of the scheme is such that it cannot support contributions on this scale. The applicant points out that the Local Plan Viability Study actually concludes that schemes within the Dover Urban Area are unlikely to be viable in any circumstances, due to the low returns available and high development costs. On this basis, it is said, it is not only the affordable housing contribution that should be set aside, but the justification for all developer contributions should be re-assessed. In addition, it is argued, this scheme would contribute to the regeneration of the Coombe Valley area, a location that the Council has specifically identified as in need of regeneration, and that helping to achieve this objective is something that should be given significant weight, and delivery of the scheme should not be put at risk by making the scheme even less viable. The applicant has declined to carry out a site-specific viability study, arguing that the cost of this would further diminish the margins and that the lack of viability has already been proven by the Council's own Local Plan evidence.

- 2.46 The applicant has said that he is willing to pay the requested NHS contribution and 50% of the contributions sought by KCC and 50% of the Open Space contributions. In response, KCC has said that

*“Kent County Council has assessed the impact that the proposed Coombe Valley Road development will have on County Services, and we require that these impacts are mitigated by the service contributions requested. However, the County Council acknowledges that there are discrete issues with this particular site, and without prejudice, accepts the contributions offered.”*

- 2.47 NPPF paragraph 58 says that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.
- 2.48 In this instance, there is some force in the argument that the viability assumptions upon which the adopted Core Strategy was based are no longer valid or up to date (see, for example, para 12.51d of the Whole Plan Viability Study). Notwithstanding the applicant’s reluctance to commit to a full site-specific viability assessment, there is some risk that, if this were to be carried out, the conclusion would be that the site could bear no developer contributions at all (that is, less than the applicant is currently offering). The weight to be given to the point about stimulating regeneration in the Coombe Valley area is something for Members’ judgement but, as mentioned previously, there is no doubt that this development presents an opportunity for a significant uplift in the visual quality of this part of Coombe Valley Road.
- 2.49 There is very much a balanced judgement to be made here, whilst it is unusual to be in a position whereby site specific viability has not been robustly tested. However, having weighed all the conflicting arguments and discussed with the various interested parties, the level of contributions offered by the applicant does not, on this occasion and in relation to this site, seem unreasonable. On that basis, it is recommended that the following developer contributions be sought:

NHS (towards General Practice facilities) (full amount)	£26,280
KCC (towards a range of facilities, to be agreed with KCC, but prioritising Secondary Education and excluding HWRC upgrades) (based on 50% of original bid)	£21,575
Open space (based on 50% of original bid)	£20,085
SPA/Ramsar Mitigation Strategy (full amount)	£2,358.36

### **3 Conclusion and sustainability**

- 3.1 This proposal involves the redevelopment of a redundant service yard and open storage area to provide 40 flats. The loss of this low quality industrial land will have no unacceptable implications in terms of employment opportunities. Although it is a relatively high density development, it is acceptable in terms of impact on the amenity of neighbouring properties, and will bring a significant uplift to the area in regard to visual quality and the built environment. It is acceptable in terms of highway safety and all other technical concerns can be addressed through appropriate conditions.

3.2 The NPPF identifies three interrelated objectives that underpin the achievement of sustainable development: economic, social and environmental. This scheme brings tangible benefits in all three areas. As there are no identified adverse effects of granting planning permission that would significantly and demonstrably outweigh the benefits, planning permission should be granted in accordance with NPPF paragraph 11.

**g) Recommendation**

- I. **GRANT PLANNING PERMISSION** subject to satisfactory completion of a Section 106 Agreement to secure developer contributions as set out in the report, and subject to conditions to cover the following matters:
  - i) Standard commencement
  - ii) Approved plans
  - iii) Submission of external materials
  - iv) Submission and implementation of landscaping scheme (including the provision of trees)
  - v) Provision of car parking
  - vi) Provision of cycle parking
  - vii) Closure of existing accesses
  - viii) Provision of new access, including vision splays and turning facilities
  - ix) Surfacing and drainage of internal access road
  - x) Measures to restrict parking on internal access road
  - xi) EV charging points
  - xii) Submission of foul drainage details
  - xiii) Submission of surface water drainage scheme (following demolition/site clearance)
  - xiv) Verification report for drainage scheme
  - xv) Investigation of contamination
  - xvi) Submission and implementation of contamination remediation scheme
  - xvii) Verification report re contamination
  - xviii) Unforeseen contamination
  - xix) Adherence to construction management plan
  - xx) Installation and retention of acoustic glazing
  - xxi) No demolition during bat hibernation season

- xxii) No demolition until bat license obtained
- xxiii) Submission of detailed mitigation scheme regarding bats
- xxiv) Archaeological investigation
- xxv) Submission of scheme for Secured By Design
- xxvi) Provision of broadband connections

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

Case Officer

Neil Hewett