

- a) **DOV/21/00896 – Reserved matters application for the details of layout, scale, landscaping and appearance for the erection of 63 dwellings pursuant to outline planning permission DOV/17/01530 - Land on the North-East Side of Middle Deal Road, Deal**

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

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policies and Guidance**

**Core Strategy Policies**

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy.
- CP3 – Of the 14,000 houses identified by the plan 1,600 (around 10%) is identified for Deal, subject to investigation of Middle/North 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 to 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.
- CP11 – Provides a framework against which applications for the managed expansion of Whitfield will be assessed.
- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM5 – Development of 15 or more dwellings should provide 30% of the total homes proposed as affordable homes.
- DM11 – Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.
- DM15 - Development which would result in the loss of or adversely affect the character or appearance of the countryside will only be permitted where it is in accordance with allocations in Development Plan Documents, is justified by the

needs of agriculture, is justified by the need to sustain the rural economy or it cannot be accommodated elsewhere.

- DM16 - Development that would harm the character of the landscape will only be permitted if it incorporates any necessary mitigation measure.

#### 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 (Regulation 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 decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including where an LPA cannot demonstrate a five year housing land supply), granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance (set out in footnote 6) provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole
- Paragraph 12 states that the NPPF does not change the statutory status of the development plan. 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 confirms that the Government's objective is to significantly boost the supply of homes and requires authorities to seek to deliver a sufficient supply of homes, based on a local housing need assessment. The size, type and tenure of housing for different groups in the community should be assessed and reflected in policies. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless:

1. off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
2. the agreed approach contributes to the objective of creating mixed and balanced communities

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

- Chapter 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.
- Chapter nine promotes sustainable transport, requiring that the planning system should actively manage patterns of growth in support of this objective; although opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Chapter eleven requires that land is used effectively, having regard for: the need for different types of housing and the availability of land suitable for accommodating it; local market conditions and viability; the availability and capacity of infrastructure and services (including the ability to promote sustainable travel modes); the desirability of maintaining an areas prevailing character; and the importance of securing well-designed, attractive and healthy places. Where there is an anticipated shortfall of land to meet identified need, low densities should be avoided.
- Chapter twelve confirms that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning policies and decisions should ensure that developments:
  - a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

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

- Chapter fourteen requires that 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. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Major development should incorporate sustainable drainage systems unless there is clear evidence that this would not be appropriate.
- Chapter 15 requires that decisions should contribute to and enhance the natural and local environment by, amongst other things, minimising impacts on and providing net gains for biodiversity and preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.
- Chapter sixteen requires that applicants describe the significance of any heritage assets affected by the development, including any contribution to their setting. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Account should be taken when determining applications of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness. Great weight should be given to the conservation of designated heritage assets.

#### The Kent Design Guide and National Design Guide

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

#### d) Relevant Planning History

DOV/17/01530 – Outline application for the erection of up to 63 dwellings, access, open space, associated infrastructure and groundwork's (appearance, landscaping, layout and scale reserved) – Granted

It is also considered that applications on the adjoining site (Land on the West side of Albert Road, Deal, CT14 9RB) are relevant:

DOV/15/01290 – Outline application for a mixed-use development incorporating 142 residential units, 960sqm B1 Office, 370sqm of A1, 280sqm of D1, and a link road between Albert Road and Southwall Road (some matters reserved) – Granted

DOV/18/00203 – Variation of condition 11 (foul drainage) of planning permission DOV/15/01290 to allow amendments to the wording of the condition (section 73) – Granted

DOV/18/00892 – Reserved Matters application for the approval of Appearance, Layout, Landscaping and Scale pursuant to DOV/15/01290 for the erection of 141 dwellings and 370sqm of retail (A1) space, together with associated parking and groundworks – Granted

21/01116 - Variation of condition 1 of reserved matters application 18/00892 to allow for redesign of retail and residential block (approved units 1-8) to a create a block of 25no. apartments; amendment of 5no. blocks totalling 42no. apartments at west of site (approved units 96-99, 104-114, 115-125, 126-133 and 134-141) to create 22no. houses and 370sqm retail unit with three flats above; realignment of terrace of 2no. houses and 2no. apartments (approved units 92-95) to create terrace of 4no. houses; and substitution of house types for 12no. houses (approved units 84-91 and 100-103) - Granted

There have also been several applications for non-material amendments to the above permissions.

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

KCC Highways – *Initial response received 22<sup>nd</sup> June 2021:*

Raise a holding objection to the application. The dimensions of carriageways, footways, service margins and radii should be provided, and be in accordance with Kent Design. Speed restraint measures should be put in place at maximum spacings of 60m. Swept paths should demonstrate that 11.4m 4 axle vehicles can be accommodated. Visibility splays should be provided in accordance with standards. Regard should be had for the location of pedestrian crossing points. Service margins should be provided. Considerations should be given to a pedestrian link to Matthews Close. Consideration should be had for whether parking restrictions will be necessary. The location and sizes of some parking spaces should also be reconsidered. Consideration should be given to the provision of electric vehicle charging points. Finally, consideration should be had for the provision of footpaths.

*Subsequent response received 23<sup>rd</sup> September 2021:*

Regard has been had for Technical Note (02) by Connect Consultants dated 31 August 2021. Comments are as follows:

1. The raised table crossing adjacent to Plots 1 and 47 has been extended northwards to encompass the the change in carriageway horizontal alignment within the maximum 60 metres spacing to the feature to the north. The change in alignment has been shown using radius kerbs, which is acceptable.
2. The proposed parking space opposite Plots 22-25 has been moved eastwards, and the path to the play area repositioned to the west of the parking space. I note this path is adjacent to a tree, where pedestrian visibility will need to be maintained.
3. 'Visitor' signage to be displayed at all perpendicular spaces, which is acceptable.
4. It has been previously noted that the un adopted street are unlikely to have an unacceptable impact on the adoptable highway.
5. All dwellings with curtilage parking spaces will be provided with an EV charging point. 10% of all unallocated spaces to be provided with EV charging facilities, which is acceptable.

*Subsequent response received 26<sup>th</sup> January 2022:*

Further to previous comments dated 23 September 2021, I have no further comments. All previous amendments were considered acceptable.

KCC PROW – No comments

DDC Housing Development Manager – There is a need and high demand for affordable housing in this location. The affordable housing provision within this application is policy compliant in terms of overall numbers, but in its current format it cannot be supported. There should be a range of property sizes provided, and the split of the properties between two blocks will be problematic in management terms - 7 of the homes being for rent and 3 for shared ownership.

The highest demand for shared ownership is for 2 bedroom houses. It is, therefore, suggested that the applicant considers 2 x 2 bedroom houses and 1 x 3 bedroom house in one block are provided for shared ownership, one block of 5 flats for rent, including a wheelchair accessible unit, and the remaining 2 units for rent to be a pair of 3 bedroom houses.

DDC Tree Officer – No objections or comments

DDC Environmental Health – Confirm sighting of Phase II Contaminated Land assessment (Ecologia EES 20.309.1 07/05/21) The report submitted is accepted. Intrusive site works noted within the report have identified elevated levels of lead, other pollutants & heavy metals and subsequently recommend a 'Remediation Strategy' (RS) and cover system.

In respect of condition 17 of DOV/17/01530 part A of the condition may be discharged, however I look forward to reviewing the RS and Verification Report to enable full discharge of the condition.

Kent Police – Make several comments/recommendations regarding: the surveillance and lighting of informal spaces; the provision of perimeter and boundary treatments and gated accesses; the provision of pedestrian routes through the site; parking provision; the choice of trees; defensible spaces to corner plots; lighting; details for play areas; doors and windows; cycle and refuse stores; mail delivery; and CCTV. It is suggested that a condition be attached requiring that the applicant follows Secure by Design Homes 2019 guidance.

Environment Agency – We have no further comments to make on this planning application beyond those in our response, KT/2018/123825/01-L01, dated 24th January 2018, to the outline application, DOV/17/01530.

KCC LLFA – *Initial response received 15<sup>th</sup> July 2021:*

The applicant has submitted details in relation to drainage design which demonstrate that sufficient space has been allocated to the management of surface water within the proposed development.

Based upon this information we would recommend that the layout for this proposed development may be approved in relation to surface water management concerns.

We will recommend that specific details of the design are provided for further review at later stages of planning approval as required by the planning approval.

*Subsequent response received 14<sup>th</sup> December 2021:*

Having reviewed the information provided we are satisfied that the changes to layout submitted do not have a detrimental effect to the management of surface water and would advise that our comments in our response dated 15th July 2021 remain valid.

River Stour IDB – The IDB have been involved in pre-application discussions with the applicant's consultants, and the general arrangement and drainage proposals appear to reflect the agreements reached with ourselves and KCC (as LLFA for the area). As previously mentioned though, your Authority will be aware that there have been repeated flooding issues in Albert Road, brought about by problems with Southern Water's drainage network (which Southern Water is understood to be addressing), which relies on the watercourse behind Matthews Close and this site (Matthews Close Dyke). It will therefore be essential that drainage (including foul drainage capacities) and flood risk is properly monitored and managed to ensure that known problems are not worsened. The drainage scheme presented discharges to the watercourse to the north of the site at a rate agreed with the IDB and KCC and should not exceed the rate from the undeveloped site. An 8m easement has been left between the properties and the watercourses that border the site, with minimal encroachment into this area for underground services/SuDS.

Notwithstanding the above, the applicant and their agents should be aware that for any new formal discharge to the watercourse identified, a Land Drainage Consent will be required and that an associated Surface Water Development Contribution is now applicable. We would request that they are asked to contact us at their earliest convenience to discuss the requirements for our Land Drainage Consent (for the outfall and crossing) and the associated SWDC contribution.

Land Drainage Consent will also be required for the proposed new crossing. We would recommend that the applicant/their consultants contact us at their earliest convenience to discuss the above issues.

Southern Water – *Initial response received 5<sup>th</sup> July 2021:*

Southern Waters further investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water have restrictions on the proposed tree planting adjacent to Southern Water sewers, rising mains or water mains and any such proposed assets in the vicinity of existing planting. The Council's technical staff and the relevant authority for land drainage should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

*Subsequent response received 28<sup>th</sup> July 2021:*

Further to our previous correspondence dated 05/07/2021 regarding the above planning consultation we would wish to withdraw the representation and substitute the comments below.

Southern Water shall have no objection to the above reserve matter application.

Our further investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

The Council's technical staff and the relevant authority for land drainage should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

*Subsequent response received 13<sup>th</sup> December 2021:*

The comments in our response dated 28/07/2021 remain unchanged and valid for the amended details.

Environment Agency – Do not wish to provide any detailed comments on any revised layout and landscaping.

In relation to the submitted phase 2 site investigation report by Ecologia EES 20.209.1 the following comments are made:

The recommendations and analysis of risks and liabilities detailed in the submitted site investigation report are agreed in principle and the outline proposals for remediation works at the site are generally acceptable. These should be detailed in a remediation implementation plan, submitted and approved by the LPA. Any relevant pre-occupation planning condition should not be discharged until all the works are complete and a verification report submitted. Any relevant planning condition related to unexpected contamination should not be discharged until all foundation works are complete and a closing report submitted confirming no additional measures were required during groundworks. Any remediation must be carried out in a strictly controlled manner to ensure that contaminants are not exposed and releases allowed to air, land or controlled waters, which could cause pollution, harm or nuisance. Clearing areas, particularly removing hardcover, must be done in a manner not likely to expose contaminants to flushing by incipient rainfall or surface water run-off on the site. Temporary surface water controls and management of any materials movement on site is critical to ensure protection of controlled waters near the site. Further clarification should be sought from your Environmental Health Officer with respect to issues related to harm to human health.

Deal Town Council – *Initial comment received 6<sup>th</sup> July 2021:*

Object. On the grounds laid out by highways concerning access and design of the road system for all vehicles including emergency vehicles.

*Subsequent comment received 7<sup>th</sup> December 2021:*

No objection: DTC note the minor improvement to previous reserved matters.

Public Representations – Twelve objections have been received to this application, raising the following concerns:

- Flood risk
- Insufficient sewerage capacity
- Car parking should be provided for the residents of Middle Deal Road/additional parking on Middle Deal Road
- Inadequate parking within the development
- There should be no access through Matthews Close
- Inadequate vehicular visibility
- It is unclear where the access point would be
- Increased traffic
- Disturbance during construction
- The site cannot accommodate the amount of development being proposed/overdevelopment in the area
- Impact on wildlife

- Impact on Listed Building (Walnut Trees)
- Harm to the residential amenity of neighbouring properties
- Need for additional landscaping
- Lack of infrastructure to support the development
- Noise and light pollution

- f)
1. **The Site and the Proposal**
    - 1.1 The site is located to the west of the built up area of Deal, within Flood Risk Zone 3. The areas to the south-east, south-west (both residential uses) and north-west (commercial/industrial uses) of the site are within the settlement confines of Deal, whilst the application site itself is outside of the confines. To the east of the site is the land which was the subject of the approved outline planning application for the development at land at Albert Road and Southwall Road (DOV/15/01290). This permission related to the erection of 142 dwellings, 960sqm of B1 offices, a 370sqm A1 retail unit and 280sqm of D1 non-residential institution (indicatively described as a children's nursery). A new road, designed to provide improved traffic distribution in the area, was also approved to provide a new link between Albert Road and Southwall Road. The new road has now been completed and the residential element of the development is well underway.
    - 1.2 The site itself measures approximately 2.5ha and is roughly rectangular in shape. The land is vacant of buildings and agricultural in nature, although it does not appear to have been actively farmed for some time. The site is relatively flat, although there is a slight rise in levels from north to south. There are trees to and hedges to most boundaries, although there are few trees to the south eastern boundary. The largest trees are to be found on the north eastern boundary of the site.
    - 1.3 This application follows the grant of outline planning permission for the erection of up to 63 residential dwellings (C3), an access to the north eastern boundary of the site into the land at Albert Road/Southwall Road, open space, landscaping, infrastructure and groundwork's. This reserved matters application seeks approval for the appearance, landscaping, layout and scale, whilst access having been approved at the outline stage.

## 2. **Main Issues**

- 2.1 The main issues are:
  - The impact on the character and appearance of the area and the historic environment
  - The impact on neighbouring properties
  - The impact on the highway network

## **Assessment**

### Principle

- 2.2 Whilst the principle of the development was established by the grant of outline planning permission, it is necessary to consider the impact that the publication of the Regulation 18 plan has on the assessment of this application. 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.

- 2.3 The principle of the development was considered at the outline stage and is not for consideration at this reserved matters stage. Application DOV/17/01530 established that the principle of the development is acceptable. Whilst, in some respects, circumstances have moved on since the outline permission was granted (The NPPF has been amended, publication of the Regulation 18 plan, changes to planning guidance etc.), these do not affect the principle of this development for the purposes of assessing this reserved matters application.
- 2.4 Notwithstanding the above, 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.
- 2.5 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 include 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.
- 2.6 The tilted balance is not engaged by reason of the councils five year housing land supply or Housing Delivery Test result, as the council has a demonstrable five year housing land supply (6.35 years worth of supply) and have not failed to deliver at least 75% of the housing delivery test requirement (delivering 88%). However, regard must be had for whether the tilted balance is engaged by virtue of the basket of most important policies being out of date. It is considered that policies DM1, DM11 and DM15 are the 'most important' policies for determining this application.
- 2.7 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 557 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. 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 on land outside of the settlement confines of Deal; however, whilst there is no specific policy relating to the site, the site is referenced within the Land Allocations Local Plan (LALP), which acknowledges that there may be the potential for development

in this location and that this could include retail and residential development and a new road. The land between Albert Road and the industrial units on the Minters Industrial Estate (known as Land on the West side of Albert Road, Deal) has been granted outline planning permission for a mixture of residential and commercial uses, together with the formation of a new access road between Albert Road and Southwall Road. In approving this development, the Committee Report acknowledged that the Albert Road site had been identified within the Middle/North Deal area identified by paragraph 3.67 of the Core Strategy as having an opportunity for urban expansion, which is expanded upon at paragraphs 3.194 and 3.195 of the LALP. The Deal Transport and Flood Alleviation Model suggests that development be focused towards the Albert Road and Southwall Road area. This study is a material consideration and adds significant weight in favour of residential development in this location. It is acknowledged that this application falls outside of the land which is required to provide the access road, which was secured by the Albert Road development; however, it is considered that the identification of this land as having development potential continues to carry weight.

- 2.8 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 outside of the settlement confines and so is contrary to DM11. DM11 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. The occupants of the development would be able to access most day to day facilities and services within Deal and would be able to reach these facilities by more sustainable forms of transport, including walking, cycling and public transport.
- 2.9 Policy DM15 resists the loss of countryside (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside as a blanket approach is more stringent an approach than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development. There is therefore some tension between this Policy and the NPPF. Whilst it is not considered that this tension is sufficient to mean that the policy is out of date, it is considered that the policy attracts reduced weight. In this instance, the site forms a part of a housing allocation, with existing or consented development surrounding it. As such the development proposed by this application would have a limited impact on the character and beauty of the countryside.
- 2.10 Policy DM1 is out-of-date, whilst DM11 and DM15, although to differing degrees being in tension with the NPPF, are not out-of-date. Given how critical DM1 is to the assessment of the application, it is considered that, on balance, it is therefore considered that the basket of 'most important policies' are out of date and the 'tilted balance' described at paragraph 11 (d) of the NPPF is engaged. Whilst this section sets out the current position regarding the tilted balance, weight to be attributed to policies and the housing delivery picture in

the district, it is important to recognise that the principle of the development was established at the outline stage and is not for consideration under this application, which purely seeks approval for the reserved matters.

### Character and Appearance

- 2.11 The site measures approximately 2.56 hectares, albeit the north eastern and north western peripheries of the site cannot be developed due to the need to provide a buffer to watercourses and retained vegetation. The application proposes 63 dwellings (as suggested at the outline stage), which equates to a density of approximately 24.6 dwellings per hectare. Policy CP4 advocates densities of 40 dwellings per hectare where possible, whilst advising that densities below 30 dwellings per hectare will seldom be justified. It is noted that some third parties have commented that the density is too high. Whilst the proposal represents a relatively low density, the density of the developable area is closer to the 30 dwellings per hectare envisaged by policy CP4. Moreover, the proposed density has regard for the prevailing density found within the vicinity of the site and as approved on the adjacent site. As such, the proposed density is considered to be acceptable.
- 2.12 The layout of the development comprises a central perimeter block and inward facing development to the peripheries of the site, which largely back onto existing housing, providing for active frontages, a clear and legible layout and positive structure to the edge to the built development against the open spaces. This layout aligns with the indicative layout presented at the outline stage towards the north western part of the site, but amends the cul-de-sac perimeter block layout to the south eastern part of the site with a simpler looped road layout. It is considered that the simplification of the layout has been positive, allowing for more frontage development and few prominent side elevations and boundaries within the scheme. The layout now proposed is, as stated above, more legible and attractive.
- 2.13 Prominent car parking can often detract from the visual quality of developments of this scale. The application seeks to address car parking by providing the majority of spaces on driveways to the front of dwellings, albeit some additional parking has been provided in layby spaces and in a small parking court between flat blocks. This approach, in isolation, has the potential to appear unattractive and car dominant, with spaces being highly visible within the street scene. However, in this case, the applicant has achieved regular relief from the parking hardstandings with vegetation. Of particular note are the number of trees to be providing lining the roads, the verticality of which would effectively 'break-up' the appearance of the car parking. In addition, some of the denser areas of car parking would be concealed by 'pergola' type structures which would again reduce the visual prominence of parked cars. Overall, it is considered that this approach is successful and would ensure that the development would not appear unduly car dominated.
- 2.14 Seven dwellings (units 1-7) would back onto the open space around the watercourse which runs between this site and the Albert Road site. This same relationship with shown on the indicative plans submitted at the outline stage and drew some criticism in that report. The provision of dwellings facing into the site in this location results in the rear boundary treatments backing onto this space, producing an area of visual inactivity which both detracts from the visual appearance of the area beyond the site and can increase the risk of crime through rear gardens which have reduced natural surveillance. However, this must be balanced against achieving an appropriate amount of

development on the site and having regard for how alterations would themselves impact on the character of the scheme. It is noted that this layout replicates the relationship of existing dwellings in Matthews Close, which also back onto this watercourse and, as such, these dwellings would not appear out of place or contrived. The applicant has also sought to limit this impact through the use of planting, including tree planting, to soften this boundary. Overall, whilst having dwellings that back onto this space is not ideal, this layout would not cause significant harm and, on balance, is acceptable.

- 2.15 Initial concerns were raised regarding the orientation of the dwelling adjacent to the entrance to the site (unit 47), which would have presented a bland side elevation to people entering the site. This unit has now been reorientated so that its front elevation faces outward, giving a much more inviting entrance into the site. This reorientation also means that the ridge line of the building rises up to soften the appearance of the taller flat blocks behind which could otherwise appear more dominant in views into the site.
- 2.16 The proposed flat blocks, whilst lacking the private gardens of the proposed houses, would continue the street frontage pattern of development and would be well spaced. Consequently, the layout of the flats would not appear overly cramped or contrived.
- 2.17 The dwellings would predominantly be two storeys in height towards the eastern half of the site and predominantly 2.5 storey in height towards the western half of the site. The flatted development towards the north western boundary, backing onto industrial units, would be three storeys in height. The development would be seen in the context of two storey development in Matthews Close and the two to two and a half and three storey development in the adjacent Albert Road site. The development would also be seen in some views over the industrial units to the north. Whilst the site would also bound development to the south west on Southwall Road, as the development would be set a significant away from this road, it is not considered that the development would be seen in the immediate context of these properties. Overall, it is considered that the scale of the development across the site has been well conceived, with the smaller two storey dwellings being located where they would be seen in the context of predominantly two storey dwellings, whilst the larger two and half and three storey building would be located where they would be seen either in isolation (from existing development) or with larger industrial scale buildings. Moreover, the overall scale of buildings reflects that which has been approved within the adjacent Albert Road site.
- 2.18 The dwellings would be provided as detached, pairs of semi-detached dwellings or short terraces of three dwellings, in accordance with the prevailing form of housing the area. Of particular note are the two detached dwellings either side of the entrance to the site, which would provide an attractive and visually welcoming entrance into the site. The three flat blocks are less typical of development in the area. Despite this, similar flat blocks were approved as part of the Albert Road development, whilst the buildings heights within the site vary such that the form of these buildings would have regard for their context.
- 2.19 The detailed design of the various buildings within the scheme would have a shared character and would relate well to the architectural style of the Albert Road development. The style of the houses is essentially, the same, albeit some differentiation is provided between the different types of building

(detached, semi-detached and terraced) and through the use of materials. The houses would have bay windows to their front elevations or, in the case of some of the detached dwellings, two storey front projections, which would provide for visual interest and articulation in the street scene. The fenestrations of the buildings provide generously sized windows adding character of the buildings, laid out in a regular pattern to provide symmetry to the buildings. Where brick elevations are proposed and where possible, having regard for the design of the building (for example whether there is a canopy), arched brick headers are proposed above windows. Where buildings are two and a half storeys in height, the dormer windows serving rooms in the roof spaces are modestly sized, such that they don't dominate the roof. Several properties throughout the development will also have chimneys on their roofs, giving some interest to the roof scene. The blocks of flats would, through necessity, have a slightly different architectural language, having a central front door to serve the whole building. Whilst the form of the buildings and their relationship with the street would consequently differ from the single dwellings, the overall architectural style (pitched roof forward projection, generously proportioned and regularly spaced fenestration) and use of materials (set out below) would visually tie in with the rest of the development.

- 2.20 The dwellings would predominantly be constructed of red brick, with the remainder finished in white weatherboarding. The flats would be brick at ground floor level with black weatherboarding above. Roofs would be a mixture of red and black tiles. The materials closely match the variety of materials found within the adjoining development. The restricted palette would provide the scheme, together with the Albert Road site, a strong sense of place. The outline planning permission included a condition which required samples of the material used in the construction of the development to be approved in writing by the local planning authority.
- 2.21 In most instances where boundaries between dwellings would be highly visible (side boundaries of plots 1, 27, 28 and 47), brick walls are proposed. Elsewhere and across the majority of the site, closed boarded fences are proposed. Again, these details replicate the boundary treatment detailed within earlier Albert Road development and ensure that from public vantage points the development maintains a high quality character. All of the fences and walls would incorporate hedgehog cut-outs, which maintain routes between gardens for foraging. Timber posts and knee rails are proposed around the open spaces and visitor car parking. Concern had been raised regarding how the junction between the road and path within the site and the road and footpath in Matthews Close would be treated. Following negotiations, the applicant has agreed to provide a 1m high metal railing at this junction, which would prevent access (this will be discussed below), whilst providing a more attractive solution in this prominent location.
- 2.22 The application has been supported by a landscaping strategy and more detailed landscaping plans. The roads through the site would be lined with trees, which would be of a reasonable size at the time of planting (ranging between 3.5m and 5.5m in height) and a mix of species, including a large number of native species. Trees would also be provided within the central green space. The tree planting would be complemented with generous hedging, shrubs, and ornamental and herbaceous planting. It is also proposed to establish areas of wildflowers to the north eastern and north western peripheries of the site and to the central green. Whilst the landscaped areas around most of the site are limited in size, it is considered that provision of trees within these areas will maximise the visual contribution of these spaces.

Elsewhere, where there is more scope for denser and more varied planting, the opportunity for high quality planting has been taken. Overall, it is considered that the landscaping design is well considered and will significantly enhance the character of the scheme as a whole.

- 2.23 Overall, the house types and materials chosen respond well to the character of the Albert Road development which is well under way on the adjacent site. The layout also broadly works well, being legible, street fronting and tree lined. Whilst the rear elevation of properties to the north east would back onto the open space beyond the site, creating a poor visual relationship, it is accepted that this is required due to the need to provide a reasonable density within the site and make effective use of the land, whilst the impact has been reduced with vegetation and locally distinctive, it is considered that the layout, scale and appearance of the development overall is acceptable, whilst landscaping proposed is of a good quality and would soften the development. As such, it is concluded that the visual impact of the development is acceptable.

#### Impact on Residential Amenity

- 2.24 The proposed dwellings would generally be well separated from neighbouring residential properties. Typically, the properties to the south east, on Southwall Road, would be separated from the proposed dwellings by more than 50m. No.'s 6 and 8 would be somewhat closer, but still around 30m away. Consequently, it is not considered that these properties would be sufficiently close to the proposed dwellings to suffer unacceptable loss of light, sense of enclosure or overlooking. No.4a is set significantly back into the site, such that it is much closer to the proposed dwellings, being almost in line with the side elevation of plot 35. This dwelling would be set around 7.5m from the side elevation of No.35 and around 13.5m from the side elevation of No.21. Whilst the proposed dwellings would be relatively close to No.4a, it is considered that due to the reasonable separation distance, together with the orientation of the proposed dwellings and their positioning relative to the positioning of No.4a, unacceptable harm would not be caused, albeit this dwelling would suffer a degree of loss sense of enclosure. Both units 21 and 35 would include windows within their side elevations. It is considered that these windows (particularly that of unit 35) have the potential to cause unacceptable overlooking. These windows serve stairwells and, as such, could be non-opening and fitted with obscure glazing. In relation to plot 21 I am satisfied that this would result in no significant overlooking and only a limited perception of overlooking. In relation to unit 35, whilst actual overlooking would be avoided by such an approach, I consider that the closer relationship with 4a would result in a greater perception of overlooking. Although, on balance, this is not considered to be sufficient to warrant refusal of the application, it does weigh against the scheme. It would be reasonable to ensure, by condition, that the side facing windows of units 21 and 35 should be provided with obscure glazing and be non-opening.
- 2.25 The proposed dwellings would typically be set away from the dwellings to the south east by around 21m and from the rear boundaries of these neighbours by approximately 14m. This is considered sufficient to avoid unacceptable loss of light, sense of enclosure and overlooking. Some dwellings in Matthews Close would, however, be closer to the proposed dwellings, by virtue of being located closer to the boundary of the site. In these cases, the dwellings (No.'s 55 and 67) would be around 17.5m from the rear elevations of the proposed dwellings. No.55 would be set at an angle to the rear elevations of proposed dwellings, whilst No.67 would be at 90 degrees (i.e. its side elevation faces

towards the site) to the proposed dwellings. In each case, the gardens to the proposed dwellings, would be upwards of 15m and, for this reason, whilst the impact on the residential amenities of these two dwellings would be greater than other properties in Matthews Close, it is not considered that the impacts would be sufficient to warrant refusal.

- 2.26 The nearest dwellings within the development to the north east, which is currently under construction, are approximately 27.5m away. Again, given this separation distance, I am satisfied that these dwellings would not be unacceptably affected by a sense of enclosure, loss of light or overlooking.
- 2.27 There are no residential dwellings to the north west.
- 2.28 It is not considered that there are any other properties which would likely be affected by the proposals. Consequently, it is considered that the development would not result in an unacceptable loss of residential amenity to any neighbour.
- 2.29 The construction phase also has the potential to impact upon the living conditions of neighbours. The outline permission acknowledged the potential impacts of the construction phase and sought to mitigate these impacts by way of a condition requiring that a construction management plan be submitted and approved prior to the commencement of the development.
- 2.30 Turning to the living conditions of future occupiers, the proposed dwellings are arranged around the perimeter of the site and in one perimeter block. This layout generally allows for reasonable separation between units, typically having back-to-back distances of around 21m (or greater). For the same reasons as outlined above, units 8 to 21 would be closer to neighbours outside of the site, whilst these neighbouring properties have relatively short gardens. It is likely that the rear (south eastern) parts of the gardens of units 8 to 21 would be overlooked to a degree by existing neighbours, but I do not consider that this would be sufficient to warrant refusal of the application, whilst prospective buyers would be aware of the situation.
- 2.31 The proposed dwellings would typically be generous in size and the majority, including all the largest dwellings, would have private rear gardens. Where flats are proposed, they would be located reasonably close to areas of public open space. All dwellings would be naturally lit and ventilated. It is not considered that any dwelling would be unacceptably impacted by noise or disturbance. All units would be provided with refuse storage which would be reasonably convenient. For these reasons, it is considered that the living conditions for future occupiers would be acceptable.

#### Impact on the Local Highway Network

- 2.32 The principle of the development comprising 63 dwellings in this location has been established and its impact on the wider road network has been accepted. The outline permission also included consideration of the proposed access to the site, which has been approved. Consequently, this application only requires consideration of the layout of the internal roads and the provision of car parking.
- 2.33 KCC initially raised concerns with the application, due to a lack of information on the submitted plans and with some aspects of the road design, such as the provision of speed restraint measures and the location of pedestrian crossing

points. KCC also advised that consideration should be given to a pedestrian link to Matthews Close and the provision of electric vehicle charging. Following this, the applicant submitted further information and amended drawings.

- 2.34 The applicant has submitted tracking plans which demonstrate that 11.2m long fixed axle vehicles and fire tenders could access the site, navigate the roads, turn within the proposed carriageway and exit the site in a forward gear. The roads also provide adequate forward visibility around corners and to individual driveways and parking spaces. Speed restraint measures have been incorporated into the development, to the satisfaction of KCC. Vehicular access to and from the site and access through the site is therefore considered to be acceptable.
- 2.35 The development proposes a series of pedestrian crossing points adjacent to junctions which provide safe and convenient pedestrian access around the site. KCC had suggested that pedestrian access to Matthews Close should be considered, however, a number of neighbours have objected to the provision of such an access. The scheme shows that the footpath to the front of units 1-7 would terminate short of the existing footpath on Matthews Close. Providing a footpath link would have benefits in terms of pedestrian permeability and encouraging short journeys by foot, particularly to the Queen Street bridge over the railway line. However, this route was not proposed at the outline stage when access was approved. Kent Police also have reservations regarding cut through pedestrian links due to how they can be used to evade police, albeit this must be balanced against the benefits of improving pedestrian permeability. Overall, given that details of 'access' were approved at the outline stage without this pedestrian route, it is considered that it would be unreasonable to require this link at this reserved matters stage.
- 2.36 Policy DM13 of the Core Strategy requires developments to provide sufficient car parking, having regard for the scale of the development and its location. DM13 does, however, acknowledge that car parking provision should be design-led. The application would create a suburban development. In such locations, Table 1.1 of the Core Strategy advises that one and two bedroom dwellings should be provided with one parking space per unit; three bedroom dwellings should be provided with 1.5 car parking spaces; and dwellings with four or more bedrooms should be provided with two car parking spaces (although these figures are described as being minimums). In addition, 0.2 visitor spaces should be provided for each dwelling.
- 2.37 The vast majority of the dwellings would be provided with two spaces independently accessible. Five dwellings (5, 12, 20, 40, 46) would only be provided with one car parking space. These dwellings comprise three three-bed dwellings and two two-bed dwellings. Consequently, the three three-bedroom dwellings underprovide car parking by half a space each. The remainder of the dwellings provide the required car parking or slightly over the required car parking provision. The flats, which would all be one and two bedroom units, would each be provided with one car parking space, in accordance with the requirement of Table 1.1. The wheelchair user flat would be provided with a disabled car parking space. The scheme also provides 22 visitor spaces. The 63 units proposed would produce a requirement for approximately 12.6 visitor spaces, so the development would overprovide visitor parking by around 9 spaces. Whilst three dwellings would have slightly less than the parking provision required by table 1.1, they would be located relatively close to visitor parking spaces. Given the overprovision of these

spaces, it is considered that the lack of a second car parking space to these units is not objectionable.

- 2.38 Electric vehicle charging was not secured as part of the outline planning permission, with that permission preceding the councils now standard approach of requiring such provision. However, the applicant has proposed to provide an EV charging point to all dwellings with parking in their curtilage, whilst 10% of all unallocated spaces will also be provided with EV charging facilities.
- 2.39 The NPPF advises that permission should only be refused on highway grounds where the development would cause an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. For the reasons outlined, it is concluded that the development would not cause any significant harm to the road network and would not cause any unacceptable impacts on highway safety and is therefore acceptable.

### Ecology

- 2.40 The potential ecological impacts of the development were considered at the outline application stage. It was concluded that, having regard for the habitat on the application site and the likelihood of various species being affected by the development, a series of mitigation measures would be necessary. These included: timing of the works to minimise disturbance; undertaking further surveys to ensure that absent species have not populated the site after the previous surveys were undertaken; providing refugia for species; designing boundaries to allow for the movement of animals; inspecting trees for signs of bats before felling; and producing a detailed lighting scheme to avoid disturbance of bats. These measures were secured by condition and it was concluded that the development would cause no harm to protected species or habitats. It is considered that this remains the case.

### Drainage

- 2.41 Foul and surface water drainage and localised flooding were key, interlinked, issues at the outline application stage. Whilst it would be inappropriate to rehearse the detailed considerations which were accepted at the outline application stage, given that third parties have raised the issue in relation to this application, it would be reasonable to summarise what has been approved and the consultation responses received in relation to the current application.
- 2.42 The River Stour Internal Drainage Board (IDB) have advised that the applicant has discussed the development with them and that the application as submitted reflects what had been agreed. The drainage scheme presented discharges to the watercourse to the north of the site at a rate which the IDB and Lead Local Flood Authority have agreed. The rate of drainage would mimic greenfield run-off rates, such that post development surface water floods from the site would not exceed the rate from the undeveloped site. An adequate easement has been left between the proposed dwellings and watercourses adjacent to the site.
- 2.43 The LLFA have advised that the drainage design details submitted by the applicant demonstrate that sufficient space has been allocated to the management of surface water within the proposed development and that, consequently, the layout which has been proposed is acceptable. Whilst the LLFA have advised that specific details of the scheme will be required, they

note that submission of these details was secured by condition at the outline stage.

- 2.44 Whilst details of surface water drainage were addressed at the outline stage and through the imposition of a condition, it is considered that the proposed reserved matters scheme presented in this application is compatible with the envisaged surface water drainage scheme and is considered acceptable by the relevant consultees.
- 2.45 Turning to foul water, the IDB have noted that there have been repeated issues of flooding in Albert Road as a result of problems with Southern Water's drainage network, albeit the IDB understand that these issues are being addressed. However, they have advised that their network relies on the watercourse behind Matthews Close and this site (Matthews Close Dyke) and it is therefore essential that drainage (including foul drainage capacities) and flood risk is properly monitored and managed to ensure that known problems are not worsened. The imperative need to ensure foul (and surface water) drainage operates effectively both on site and in the wider area was acknowledged at the outline stage
- 2.46 The outline permission accepted the principle of the development draining into the Southern Water sewerage network, albeit the detailed on-site drainage design should be prepared in compliance with the current Sewers for Adoption requirements, prior to the commencement of the development. The condition attached to the outline permission would not allow occupation of any dwelling until the detailed drainage design with sufficient capacity have been submitted and approved by the local planning authority and implemented (and verified to be operational). Southern Water have been consulted on the current reserved matters application and have raised no objection, advising that foul flows can be accommodated. Members are reminded that this application only seeks approval of the reserved matters, being the appearance, landscaping, layout and scale of the development.

#### Other Matters

- 2.47 At the outline stage affordable housing and contributions were assessed, concluding that the development could support a total of £461,954.15 in developer contributions, together with ten affordable dwellings. These matters were secured through a S106 Agreement.
- 2.48 DDC's Housing Development Manager has suggested that the applicant considers 2 x 2 bedroom houses and 1 x 3 bedroom house in one block are provided for shared ownership, one block of 5 flats for rent, including a wheelchair accessible unit, and the remaining 2 units for rent to be a pair of 3 bedroom houses. The amended scheme proposes two three-bedroom houses together with two two-bed flats and eight one-bed flats. Whilst the applicant will need to meet the requirements of the S106 Agreement, the proposed mix has responded to the identified need.
- 2.49 Kent Police have made a number of recommendations in order to allow the development to gain Secure by Design accreditation. Some of their recommendations fall outside of the scope of planning whilst, in other respects, securing measures which could reduce crime or the fear of crime need to be balanced against other material considerations, for example balancing the disbenefits and benefits of permeable layouts. The development has been designed to generally avoid secluded areas and pedestrian

alleyways, with the perimeter block and 'back-to-back' layouts providing for good natural surveillance and pedestrian accesses reserved for instances where access is necessary to achieve reasonable refuse carry distances. Overall, it is considered that the development strikes the right balance between securing good design, pedestrian and cycle friendly development and reducing the likelihood of crime or the fear of crime.

2.50 A third party has commented on the developments potential impact on a nearby listed building. There is one listed building within close proximity to the site. Walnut Trees which is Grade II Listed, is located around 52m to the south of the site, although its curtilage abuts the application site. Other listed buildings (Berkeley House and Sherrard House are located a little further away. Members are reminded that Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that "in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority or Secretary of State should pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". Regard must also be had for the NPPF, in particular, whether the development would cause any harm to the significance of heritage assets. At the outline stage, it was concluded, having taken advice from the councils Principal Heritage Officer, that the development would not harm any listed building or their settings. The proposed development does place the flank elevation of a dwelling close to the rear boundary of Walnut Trees; however, due to the length of the rear garden of this listed building, the proposed dwelling would be around 52m away. Given this separation distance, it is considered that, having regard for our statutory duty, the setting of Walnut Trees would not be harmed. No other listed buildings, or their settings, would be harmed.

2.51 The outline permission required that details be provided at the reserved matters stage of the proposed play area, including details of the play equipment to be provided. These details have been submitted with this application and include naturalistic play equipment and landscaping. Together with a recessed trampoline, balance beam and timber climbing frame, there are smoothed boulders and grass mounds. The area would be enclosed by timber fencing and set within an attractively soft landscaped green (which would include a number of trees and shrubs. The area would also be provided with bench and litter bin. The play area would be centrally located within the development. It is considered that the form and scale of the play area is commensurate with the scale of the development and if acceptable in planning terms.

### 3. **Conclusion**

3.1 The principle of the development has been established. This reserved matters application seeks approval for the appearance, layout, landscaping and scale of the development. The development builds on the indicate details submitted at the outline stage to propose an attractive development around a central green space which would provide a children's play area. The design of the scheme would respond to the design approved on the adjacent site to provide a strong character of this new extension of the town. The setting of listed buildings in the area would not be unacceptably impacted, having regard for our Planning (Listed Buildings and Conservation Areas) Act 1990 duty. The roads and footpaths within the site would provide safe and convenient access for vehicles and pedestrians, in accordance with the access approved at the

outline stage. The residential amenities of neighbouring properties would be safeguarded to an acceptable degree, whilst future occupiers would have at least a reasonable standard of accommodation. The development is considered to be acceptable in all other material respects.

3.2 It is therefore recommended that permission be granted.

g) **Recommendation**

I PERMISSION BE GRANTED subject to conditions to include: -

(1) approved plans, (2) provision and retention of car parking, (3) Obscure and non-opening windows, (4) EV charging provision, (5) details of window reveals, (6) provision of play area.

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

Case Officer  
Luke Blaskett