

- a) **DOV/22/01345 - Erection of a four-storey building incorporating three retail units (Use Class E) and sixteen self-contained flats (existing building to be demolished) - 12 King Street, Deal**

Reason for report – Number of contrary views (29)

- b) **Summary of Recommendation**

Grant planning permission

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP4, DM1, DM5, DM7, DM11, DM13, DM17, DM20, DM22

Draft Dover District Local Plan (March 2023) –

The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF.

Draft policies SP1, SP2, SP4, SP5, SP6, SP7, SP9, SP11, SP13, SP14, SP15, CC1, CC2, CC5, CC6, PM1, PM2, PM3, PM4, PM6, H1, R4, TI1, TI3, NE1, NE3, NE5, HE1, HE2 and HE3.

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 60, 63, 64, 86, 92, 93, 98, 100, 104, 105, 110, 111, 112, 113, 119, 120, 124, 126, 130, 131, 132, 134, 152, 154, 157, 159, 174, 180, 183, 185, 187, 194, 195, 197, 199, 205

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

DOV/18/01169 - Erection of a building incorporating 3 no retail units (Use Class A1) and 16 no self-contained flats (existing building to be demolished) – Granted

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

Representations can be found in the online planning file. A summary has been provided below:

Deal Town Council – Initial response: Objects to the application for the following reasons:

- No demolition of existing building unless a condition for complete photographic record of art deco interior is applied.
- Design of building not appropriate within the conservation area.

Second response: Objection due to the removal of affordable housing and limited parking, also this is part of a number of applications that will have a detrimental effect on Deal Town Centre, therefore a proper design study of the cumulative impact of this development and others in the vicinity is needed as required by the draft local plan as this and other developments will have an impact on the viability of the town and amenity of the middle street conservation area.

Deal Town Council also object unless a condition for complete photographic record of the art deco interior is applied. The Committee also agrees with the concerns about the preservation of a Right of Way adjacent to the proposed development.

Environment Agency - No comments

Natural England - Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).

Southern Water –The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water, before the layout of the proposed development is finalised. - The water distribution mains requires a clearance of 6 metres on either side of the water distribution mains to protect it from construction works and to allow for future access for maintenance. - No excavation, mounding or tree planting should be carried out within 6 metres of the external edge of the public water distribution mains without consent from Southern Water. - No new soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public water distribution mains. - All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

KCC Economic Development- Have requested development contributions including the following:

- **Community Learning £16.42 x 16 = £262.72** Towards additional equipment, services, and resources for the new learners at Deal Adult Education Centre
- **Youth Service £65.50 x 16 = £1,048.00** Towards additional equipment and resources for the Dover Youth Hub – Linwood, Deal
- **Library Service £55.45 x 16 = £887.20** Towards additional services, resources, and stock (including digital infrastructure and resources) to be made available at Deal Library
- **Social Care £146.88 x 16= £2,350.08** Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within the District
- All Homes built as **Wheelchair Accessible & Adaptable Dwellings** in accordance with Building Regs Part M 4 (2)
- **Waste £54.47 x 16= £871.52** Towards works at Dover HWRC to increase capacity
- **Broadband:** Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and gigabit-capable (minimal internal speed of 1000mbps) connections to multi-point destinations and all buildings including residential, commercial and community. The infrastructure shall be installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details. The development should comply

with any statutory or non-statutory guidance extant at the time a decision on the application for planning permission is made. Reason: To provide future-proof digital infrastructure in new developments as required by National Planning Policy Framework (NPPF) paragraph 114

KCC PROW– Any amendments to the surface of ED15 must be agreed with PROW prior to any disturbance. Please also refer to my previous response attached regarding any closure required to necessitate works to commence.

KCC LLFA- Require conditions relating to a detailed sustainable surface water drainage scheme and a verification report.

KCC Highways – No objections in respect of highway matters subject to the following being secured by condition:

- Submission of a Demolition and Construction Management Plan before the commencement of any development on site to include the following: (a) Routing of demolition/construction and delivery vehicles to / from site (b) Parking/turning areas and access/egress points for construction/demolition and delivery vehicles and site personnel (c) Timing of HGV movements (d) Provision of wheel washing facilities (e) Temporary traffic management / signage
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.

Kent Police- We request a condition for this site to follow SBD Homes 2019 and SBD Commercial 2015 guidance to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety.

Made comments in relation boundary treatments, lighting, doorsets, AV door entry systems, windows, cycle storage, CCTV, alarms and mail delivery.

DDC Environmental Health - There are no known contaminated land or air quality issues with this application.

No details of sound insulation between the commercial and residential part of the development. Sound insulation between residential/residential premises is normally dealt with by the Council's Building Control Department under Approved Document E of the current Building Regulations.

However, there is no standard governing the sound insulation properties of partitions between residential/commercial properties. Commercial uses generally create more noise than residential premises. We would therefore require the sound insulation between commercial/residential to be of a higher standard than specified in Approved Document E. As a guide, we would expect the level of sound insulation provided by the wall partition to be in the order of $R_w [1] 60\text{dB}$. It is recommended that a condition be placed on the application.

It is also recommended that a suitable condition is included to incorporate a Construction Management Plan to provide control to dust/noise emissions during the construction process.

DDC Housing- First Response: There is a need and a demand for affordable housing across the district, including this location. It is not clear in the application whether the s106 and the viability appraisal are applicable for the latest application, or whether this will be reviewed as part of the current application. As this is a new application, arguably the current planning policy in relation to affordable housing should be applied to this application, and viability should be reassessed on the basis of the new policy.

Second response: The provision of three homes for affordable rent would be acceptable.

DDC Planning policy Team- Have requested the following contributions for off-site provision:

Open Space

- Accessible Greenspace £1,010.90
- Children's Equipped Play Space £3,640.63
- Allotments/Community Gardens £17.00

Sports facilities and playing pitches

As made clear in Policy PM4, the Sports Facilities calculations below are taken from the Sports England Calculators and are a starting point for the assessment of Sports Provision to meet the needs of the development, and include Playing pitches, indoor Bowls, Sports Halls and Swimming as recommended by the current evidence base (see Playing Pitch strategy and Indoor Sport Facilities Strategy).

Playing Pitches (taken from Sport England Playing Pitch calculator):

	Capital Cost	Lifecycle cost (per annum)	Changing rooms (capital cost)
Natural Grass Pitches	£4,113	£857	£8,465
Artificial Grass Pitches	£1,710	£53	£560

Sports Facilities (taken from Sport England Sport Facility calculator):

Indoor Bowls	£339
Sports Halls	£7,863
Swimming Pools	£8,646

As set out in the Infrastructure Delivery Plan/Infrastructure Delivery Schedule the projects that are recommended that these contributions to go towards would be:

- Victoria Park for Open Space
- Drill Field for Outdoor Sports
- Tides leisure Centre replacement facility for indoor sports

The Theatres Trust- Have commented that the proposal would represent the loss of a social and community use and the loss of a non-designated heritage asset, with the building being seen to make a positive contribution to the townscape. However, given the previous permission, they raise no objection subject to a condition being imposed requiring a photographic and written report of the building prior to demolition. They also commented that demolition and new construction would be a less sustainable option than re-use and adaptation.

Third party Representations:

29 letters of objection have been received as below:

- Poor and unimaginative design

- Lack of reference to historic context
- Negative impact on character and appearance of area
- Negative impact on conservation area
- Existing building is part of the history of the town and should be listed
- Conversion of the existing building should be proposed, rather than demolition.
- Loss of place of entertainment
- Deal needs a cinema, rather than more retail
- Increased pressure on parking and traffic
- Lack of access for heavy/ large vehicles
- No affordable homes proposed
- Existing anti-social behaviour at night time in this area
- Noise and dust pollution at construction stage
- Highways disruption during construction stage
- Access to seafront for residents and visitors would be impeded by construction stage, with adverse effect for community and local economy
- Affects Public Right of Way ED15, Odd Fellows Alley, provision must be made protect this and keep it open during development
- Detrimental effect on surface water run-off
- Detrimental effect on public sewer system
- Use of brickwork on elevations will result in spalling, and erode the soft brick and mortar allowing rain water to penetrate.
- White render will become unsightly with algae growth

46 letters of support have been received as below:

- Existing building is an eyesore. Existing façades to car park and Oddfellows Alley are blank and of no value.
- Existing building is in poor condition
- Commercial opportunity and economic benefits
- Would provide needed homes in sustainable location
- Energy efficient homes
- Building not viable, and construction difficult to convert
- Commercial premises would provide link from the High Street to the sea front of Beach Street in a much better way than the existing building does.
- Scheme would fit in well with surrounding character, with appropriate scale and materials
- new build has less maintenance issues.
- enhancement of cycling infrastructure should be secured through permission

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

- 1.1 The application site comprises the former Royal Leisure Centre which is located on the south side of King Street and backs onto the Middle Street Car Park. Adjacent to the west is Odd Fellows Alley which backs on to commercial premises fronting the High Street, whilst to the east is a pedestrianised access leading from King Street to the car park.
- 1.2 The building has white rendered elevations fronting King Street and the car park, with a plinth, pilasters and an entablature. The roof is pitched with a parapet. It is unlisted but lies within the Middle Street Conservation Area. The nearest listed buildings are approximately 30m on Beach Street, facing the seafront.

- 1.3 The building was originally constructed in 1890 as the Oddfellows Hall. It was converted to a theatre in 1892 and then was converted to a cinema around 1934. Following eventual closure of that in 1981, it was converted into an amusement arcade on the ground floor with a snooker club at first floor. The building is now vacant.
- 1.4 The proposal is for demolition of the existing building and erection of a new building on the existing site footprint, with a total of 16 apartments on upper floors and 3 commercial units on the ground floor. The mix would be 9 x 1 bed, 3 x 2 bed and 4 x studio homes, with the commercial units having floorspace between 60 sq m and 85 sq m.
- 1.5 The building would be 4 storeys in height although the 3rd storey would have a reduced floorspace area. The 3 retail units would front onto King Street with each being self-contained.
- 1.6 No parking spaces are proposed within the development, although there is provision for cycles and mobility scooters at ground floor. Separate refuse and recycling stores are also provided for the residential and commercial elements of the scheme, with external access via the car park. A basement is proposed providing additional residential and commercial storage.
- 1.7 A similar scheme was granted permission on 1st August 2019, under reference DOV/18/01169. That applicant has submitted a statement which explains that due to the Covid-19 pandemic lockdown, and the construction market suffering from material shortages and rising costs, the project was unable to be moved forward.
- 1.8 The permission has expired and therefore the applicant has reapplied for planning permission. The scheme has been altered during the life of the application in relation to appearance, materials and provision of affordable housing.





Figures 1-3: Photographs of the site taken from the submitted heritage statement.

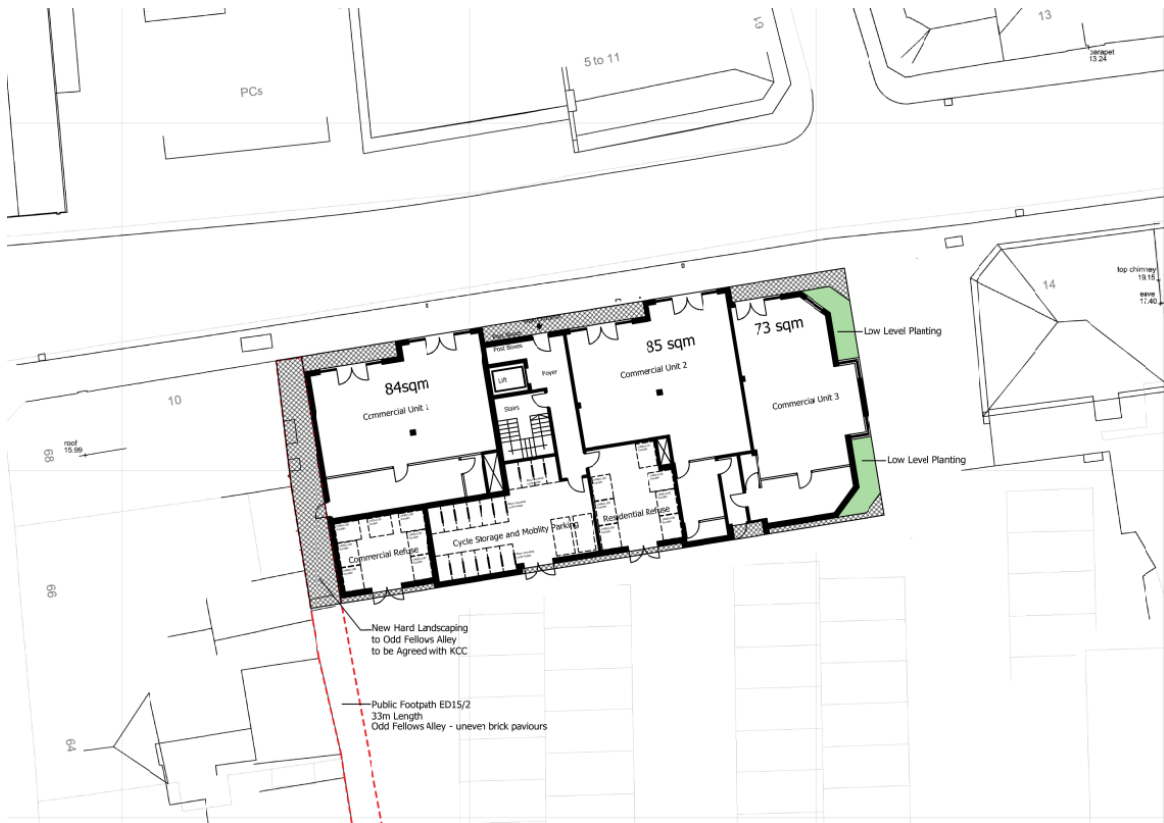


Figure 4: Proposed site plan (not to scale)



Figure 5: Proposed ground floor plan (not to scale)



Note: All apartments have a secure store located in the Basement
Minimum 5sqm allocated to each flat

Figure 6: Proposed first floor plan (not to scale)

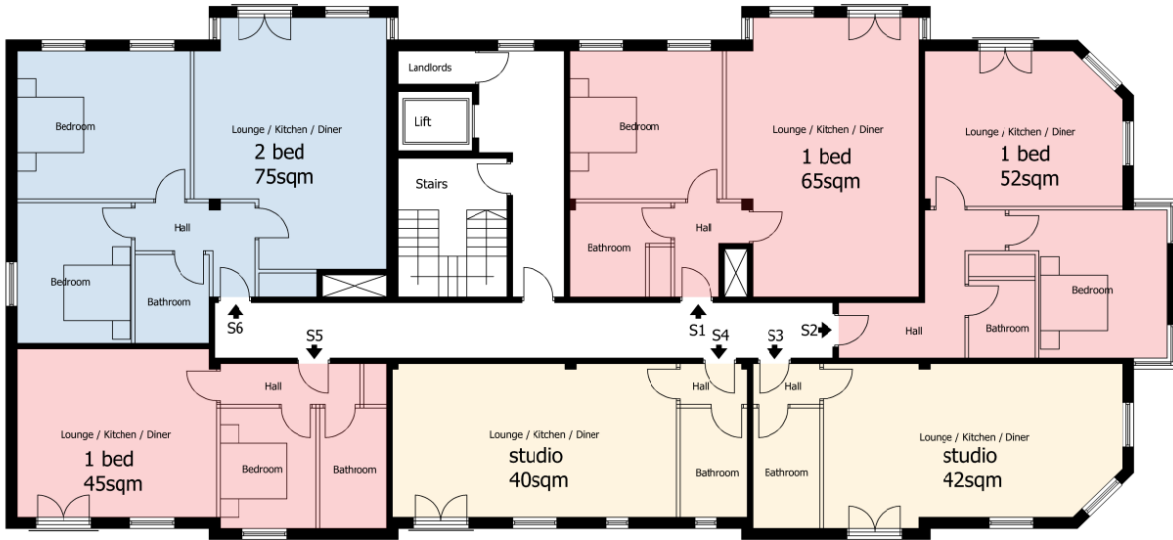


Figure 7: Proposed second floor plan (not to scale)

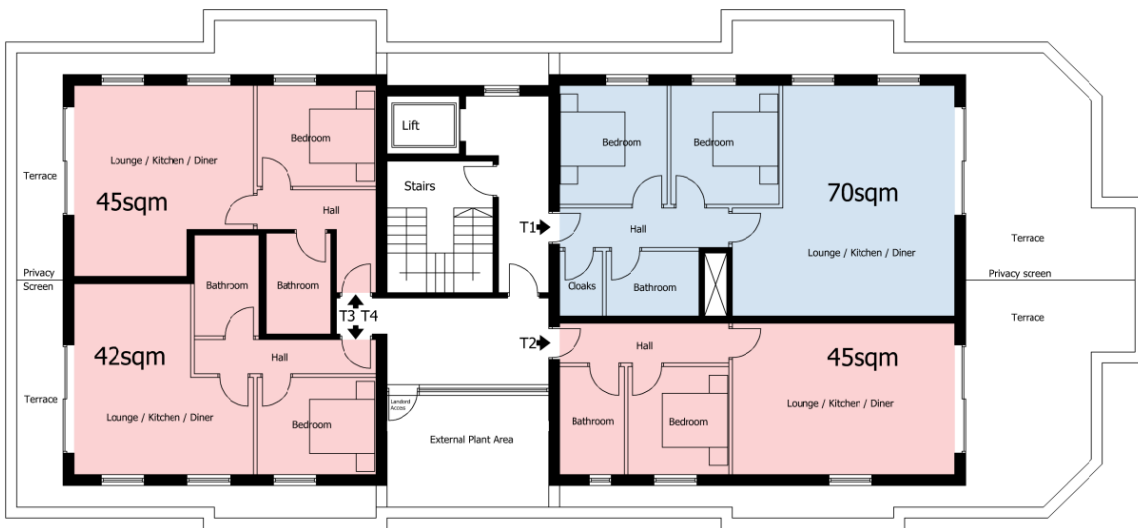


Figure 8: Proposed third floor plan (not to scale)



Proposed North Elevation
elevation facing King Street

Figure 9: Proposed north (King Street) elevation (not to scale)



Proposed South Elevation
elevation facing car park

Figure 10: Proposed south (Car Park) elevation (not to scale)

2. Main Issues

2.1 The main issues for consideration are:

- The principle of development

- Design
- Impact on heritage assets
- Impact on living conditions
- Housing mix and affordable housing
- Highway issues
- Ecology
- Flood risk and drainage
- Archaeology
- Contamination
- Infrastructure and Developer contributions

f) **Assessment**

Principle of Development

Mixed-use development (Residential and commercial)

- 2.2 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be taken in accordance with the ‘development plan’ unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework are a significant material consideration in this regard.
- 2.3 It is considered that the policies most important in determining this case are DM1 and DM11. Policies DM1 and DM11 accord with the strategic aim of the NPPF to promote sustainable development. However, it is considered that both adopted policies are in tension with the NPPF as they are considered more restrictive than the NPPF (with DM1 being considered more so), and that limited weight should therefore be afforded to these policies. Given the degree of conflict between these policies and the NPPF, it is considered that policies DM1 and DM11 are out-of-date and are given reduced weight.
- 2.4 Notwithstanding the primacy of the development plan, Paragraph 11d of the NPPF states that “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 this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (7); or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.
- 2.5 The Council are currently able to demonstrate a five-year housing land supply and have not failed the housing delivery test. Consideration must be had for whether the “tilted balance” is engaged, having regard for Paragraph 11 of the NPPF. It is considered that some of the adopted policies relevant for determining the application are out of date to varying degrees, with Policy DM1, which is particularly relevant in assessing the principle of the development, being particularly so. It is therefore concluded that the ‘basket’ of local policies is out of date and the ‘tilted balance’ should be engaged, having regard for paragraph 11 of the NPPF. Sub-paragraph (ii) states that permission should be granted unless it is demonstrated that 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.

- 2.6 Draft policy SP4 supports residential development within the settlement of Deal. Draft policy SP7 states that proposals which diversify the provision of facilities in district and local/village centres will be supported where they are of an appropriate scale in relation to the role of the centre. Draft policy SP9 states that in the wider Deal town centre area (beyond the primary shopping area) proposals for a broad range of uses will be supported including commercial, business and service uses, main town centre uses, residential, and community.
- 2.7 The proposed development is within the settlement boundary of Deal and within Deal Town Centre. It is not within the primary shopping area. The proposal for residential and commercial mixed-use development is considered to accord with policy DM1 and DM11 and draft policies SP4, SP7 and SP9.

Loss of community facility

- 2.8 The NPPF (Paragraph 93) states that decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.
- 2.9 Draft policy SP2 supports the creation of healthy, inclusive and safe communities by protecting against the loss of existing community facilities, allowing for the expansion or enhancement of existing community facilities and promoting the dual use and co-location of services in accessible places.
- 2.10 Draft policy PM6 seeks to prevent the loss of existing community facilities and services that makes a positive contribution to the social or cultural life of a community, unless suitable alternative provision already exists, new provision is provided or the need for the provision is demonstrated to be obsolete.
- 2.11 It states that planning permission will only be granted for proposals involving the loss or change of use of community services or facilities where one of a list of certain criteria are met, this includes where alternative provision of the same or similar service or facility is already available in the local area, and accessible to residents in that catchment area.
- 2.12 The amusement arcade closed in December 2017 and the snooker hall above closed in March 2018. The building has been vacant since. The applicant has submitted the supporting financial statement and local community facilities audit. The financial statement explains that demand for both most recent uses has fallen. The financial statement indicates that both the amusement arcade and the snooker hall business were in decline. Detailed financial accounts for both uses show the extent of losses which have occurred year on year. The amusement arcade was impacted by a downward trend and decline in popularity of amusement arcades generally in seaside towns across UK. Similarly, the snooker hall was also impacted by a decline in the interest in snooker as a pastime and sport across the UK. The snooker hall, before closing, was considered to be in an unsustainable situation with membership at an all-time low and low footfall. The community facilities audit sets out the background to the decline in the UK snooker and amusement arcade markets.
- 2.13 In terms of suitable alternative provision for the most recent uses, the community facilities audit notes that there are other leisure uses and community facilities in Deal. There are two alternative amusement arcades nearby within the town and there are a number of licenced premises with pool tables near to the site. With regard to reinstating the former cinema use, it is noted current Deal does not have a cinema,

however the Astor Community Theatre shows films, albeit it would not be reasonable or practicable to require the building to revert to a former use from over 40 years ago.

- 2.14 Given the above, officers are satisfied that the case that suitable alternative provision already exists nearby for its most recent leisure uses. As such the proposal is considered to accord with draft policies SP2 and PM6.

Design

- 2.15 Paragraph 152 of the NPPF states that the planning system should support the transition to a low carbon future. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, and encourage the reuse of existing resources, including the conversion of existing buildings.
- 2.16 Draft policy SP1 seeks to ensure that all new built development contributes to the mitigation of, and adaptation to climate change. This is echoed in draft policy CC2 which provides details of Sustainable Design and Construction including life cycle and adaption of buildings and minimisation of waste. The accompanying text for CC2 states that it should also be recognised that demolition and rebuild is not always appropriate, and that structurally sound buildings should be reused in preference to demolition.
- 2.17 Policy SP1 also states development should contribute to climate change mitigation through use of low carbon design to reduce energy consumption in buildings, sustainable construction techniques, water, energy and resource efficiency, renewable and low carbon technologies, maximisation of green infrastructure, reduction of the need to travel and provision of sustainable transport options.
- 2.18 Draft policy SP2 requires that new developments are designed to be safe and accessible, to minimise the threat of crime and promote social interaction and inclusion through the provision of high-quality people focussed spaces. All new development should achieve a high standard of design internally and externally, and should have accessible, high-quality greenspaces, and spaces for play and recreation.
- 2.19 Draft policy PM1 requires that development achieves a high quality of design, promotes sustainability, and fosters a positive sense of place. It also states development should respect and enhance character to create locally distinctive design or create character where none exists. Appropriate provision for service areas, refuse storage (including waste and recycling bins), and collection areas should be made in accordance with the nature of the development.
- 2.20 The submitted community facilities audit sets out that the building owing to its age and former use, is likely to contain Asbestos containing materials (ACMs). It states that the cost of safe removal will exuberate refurbishment costs. The application includes an accompanying report from a firm of quantity surveyors. This explains the difficulties of converting the building, in that all that would remain once the internal first floor is removed, would be the external walls and roof structure. The walls are uninsulated and out of plumb. With the added cost of forming additional window openings and removing the likely asbestos in the building, the cost would be prohibitive.
- 2.21 The proposal is for 16 no. dwellings at upper floors and 3 no. retail units at ground floor. Access into the building would be via King Street, with a centrally located residential access core with stairs and a lift. The three commercial units would have

their own entrances onto King Street. There would be access at the rear of the building to the cycle and refuse stores. Separate commercial and residential recycling and refuse stores have been provided at ground level. A cycle and mobility scooter store is to be provided at ground floor. Individual storerooms for residents are proposed at basement level.

- 2.22 The proposed net density is approximately 300dph which is considered to represent efficient use of land and appropriate for the town centre location and surrounding context. A height of four storeys is proposed, which is considered in keeping with the existing surrounding character. Active frontages and natural surveillance opportunities have been provided, with windows to all elevations.
- 2.23 The proposed building would have a contemporary aesthetic, but which relates to the historic context of the site, with overall height and proportions relating to surrounding buildings and the streetscape as a whole. The building would be broken up vertically, including by use of projecting elements and location of rainwater downpipes, with proportions which replicate the widths of existing buildings within the street.
- 2.24 There are a variety of different architectural styles and storey heights within King Street at present. Whilst the overall footprint of the building would be similar to the existing, the massing would be broken up by projections within the elevations at intervals, in order to respond to general plot widths and rhythm of existing buildings in King Street. The set back of the fourth floor would also assist in reducing the visual impact of the building, particularly when viewed from Kings Street.
- 2.25 The proposal includes generously sized windows with Juliet balconies, areas of brickwork detailing, and dummy recessed panels to the elevations. Surrounds are proposed to some of the windows. A plinth level is proposed at ground floor elevations, with banding within the brickwork. The building steps back at third floor level, with the third-floor elevations clad in grey metal standing seam cladding and a flat roof.
- 2.26 Brickwork is proposed for the main material, with a principal facing brick and also a secondary facing brick. Windows and rainwater goods would be powder-coated aluminium. Standing seam metal cladding is proposed to the third floor. Copper cladding is proposed to the circulation core elevations at fourth floor and for the canopy to the residential entrance on King Street.
- 2.27 The proposed development would be required to meet current building regulations in terms of energy and water efficiency. On-site energy generation has been proposed, with two photovoltaic arrays proposed on the flat roof.
- 2.28 10 of the 16 apartments would be dual aspect. Although not all the apartments would be dual aspect, generous sized windows have been proposed to all homes and windows to the southern elevation would be provided with solar shading elements above windows. The third-floor apartments have private amenity space. The first and second floor apartments would have Juliet balconies.
- 2.29 The proposals have addressed some of the issues relating to crime prevention highlighted by Kent Police, whilst more detailed matters such as controlled entry and window security will be addressed at Building Regulation stage.
- 2.30 In summary, officers are of the view that the proposal would provide a well-designed building would respond to the character, scale and grain of the surrounding townscape. Overall, it is considered that the design, character and appearance of the

development overall is acceptable and complies with adopted and draft local policy and the aims of the NPPF.

Impact on Heritage Assets

- 2.31 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 2.32 The NPPF requires the local planning authority, when assessing an application to identify and assess the particular significance of any heritage asset that may be affected by the proposal.
- 2.33 Draft policies HE1 and HE2 relate to protection of heritage assets and conservation areas.
- 2.34 The site is located within the Middle Street conservation area. The nearest listed buildings are approximately 30m to the east of the site fronting the sea, at Beach Street. Due to the size and scale of the existing and proposed buildings considered the site lies within the setting of the grade II listed building on the corner of King Street and Beach Street, No. 69 Beach Street. A heritage assessment has been submitted.
- 2.35 The existing building has brickwork walls to the north and east elevations, rendered white with some details painted red. The elevations have a plinth, pilasters and an entablature. There is a shopfront to the north elevation. There are some windows to the east elevation but none to the north. The roof is pitched with concrete tiles behind a parapet.
- 2.36 The east elevation has a broken-pediment to the gable. There is a centrally located door and a symmetrical window arrangement on the upper floors. The windows comprise mid-20th century Crittal windows. The west and south elevations are faced in yellow stock brickwork. There are a number of blocked window openings to the west elevation. There are also some windows to the south elevation.
- 2.37 The existing building itself is of interest due to its character and its historical uses. From the form and appearance of the building, it can be understood that the function would be that of a place of assembly or leisure. The building does have a somewhat monolithic presence within King Street because of its massing and lack of window openings. This contrasts with the urban grain and narrow plot widths of other buildings within King Street. The same massing and monolithic appearance present itself to the Middle Street car park.
- 2.38 The successive phases of remodelling of the hall, including the insertion of the intermediate floor and removal of many original fittings and features have resulted in the loss of some of the building's character, plan form and historic fabric. However, the building is still considered to represent a locally interesting example of civic architecture of the late 19th century, as such and due to the social history associated with the building, it is considered to be a non-designated heritage asset.
- 2.39 As per the NPPF, the level of protection afforded to a heritage asset should be proportionate to its significance. This is an unlisted building that is not locally listed, although it is considered to be of local interest.

- 2.40 The proposed design is of a similar footprint and scale to the existing building. The King Street and car park elevations however have been designed with proportions which seek to replicate the rhythm of other buildings in the street. This includes storey heights, window sizes and positions and projections within the elevation. A step back is proposed at third storey to reduce the bulk at the higher level.
- 2.41 The principal material proposed is brickwork. Metal standing seam cladding is proposed to the elevations at third storey where the building steps back. Copper cladding is proposed to the circulation core elevations at third floor and the canopy to the residential entrance on King Street. The elevations include a plinth level with brickwork banding, window surrounds and recessed brickwork panels, in addition to the Juliet balconies, these details add articulation and interest to the elevational treatment.
- 2.42 Given the proposed form, scale, appearance and materials proposed, it is considered that demolition of the existing building and replacement with a new building would be acceptable, given that the proposed design would preserve the character and appearance of the Conservation Area and would conserve the setting of nearby listed buildings.
- 2.43 It is considered that would be some less than substantial harm caused by loss of this building itself as a non-designated heritage asset. However, taking into the significance of the building, this harm is considered to be at the lower end of less-than-substantial, as such limited weight can be afforded to its protection. The NPPF requires that, where a development would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal (paragraph 202). In this case the harm is considered to be at the lower end of less than substantial, whilst the development would result in the provision of 16 dwellings, including affordable housing, and 3 retail units in a sustainable location within Deal. Having regard to conclusions relating to the visual impact of the proposal, it is considered that the public benefits outweigh the level of harm.

Impact on Residential Amenity

- 2.44 Draft policy PM2 relates to quality of residential accommodation and requires that all new residential development, must be compatible with neighbouring buildings and spaces and not lead to unacceptable living conditions for neighbouring properties through overlooking, noise or vibration, odour, light pollution, overshadowing, loss of natural light or sense of enclosure. Development should be of an appropriate layout with sufficient usable space and contain windows in all habitable rooms to facilitate comfortable living conditions with natural light and ventilation. Whilst the Nationally Described Space Standards are yet to be formally adopted, they are referenced in the emerging plan in respect of internal accommodation. Well-designed private or shared external amenity space should be provided on-site, that is of appropriate size and fit for purpose. It also states that all new build development is to be built in compliance with building regulation part M4(2).
- 2.45 Although not all the proposed dwellings meet the Nationally Described Space Standards, the proposal provides an acceptable standard of residential accommodation. KCC have requested that all homes are designed to meet Building Regulations M4(2) (Adaptable and accessible dwellings standard) and this will be secured though the s106 agreement or a condition.
- 2.46 10 of the 16 apartments would be dual aspect. Although not all the apartments would be dual aspect, generous sized windows have been proposed to all homes to allow

internal daylighting. The third-floor apartments have private amenity space in the form of roof terraces. The first and second floor apartments would have Juliet balconies. It is considered that the proposed layout would ensure sufficient privacy, outlook and daylight for future residents.

- 2.47 Due to the location of the commercial units at ground floor, Dover District Council Environmental Protection team have requested that a condition that requires a scheme for sound insulation between the commercial and residential parts of the development shall be submitted to and approved. DDC Environmental Protection have commented that they would require the sound insulation between commercial/residential to be of a higher standard than specified in Building Regulations Approved Document E. The level of sound insulation provided should provide a weighted sound reduction index of at least 60dB.
- 2.48 DDC Environmental health have also recommended that a suitable condition is included to incorporate a Construction Management Plan to provide control to dust/noise emissions during the construction process.
- 2.49 There is upper floor residential accommodation elsewhere in King Street. Given the former uses of the building and the scope for late night activity, it is considered that the potential impact of the proposed development on residential amenity would be less than previous.
- 2.50 To the west, the proposed building would be close to the rear of properties backing on to Odd Fellows alley which have rear windows in upper floors. However, that is already the case and the building would have no greater physical impact in that respect. The same is considered for existing neighbouring properties to the north and east.
- 2.51 To the north of the site are located residential properties at upper floors within windows at a distance of approximately 10m separation distance from the proposed building. To the east is residential accommodation at 14A King Street, with a window approximately 7m from the proposed building.
- 2.52 To west is located 68 High Street Deal, with two apartments at upper floors, it is understood that the east facing windows serve corridors and bathrooms only, which can be offered limited protection.
- 2.53 Also to the west is 64-66 High Street. Planning permission was granted in 2019 for conversion of the upper floors into residential accommodation under DOV/19/00591. It is not known if these works have taken place. DOV/19/00591 proposes habitable rooms with windows facing onto Old Fellows Alley. There would be two living rooms, one at first and one at second floor with windows approximately 2m from the proposed building. There would be a bedroom with a window approximately 12m from the proposed. These windows would be staggered and set apart from the bedroom windows serving the proposed building at the application site. However, it is considered that there may be some loss of privacy to the rear windows of 64-66 High Street from the third-floor roof terraces proposed, and as such a condition should be applied requiring details of measures to ensure privacy should be imposed.
- 2.54 Given all of the above, and taking into consideration the town centre location, with many properties in close proximity, it is not considered that there would be any unacceptable loss of privacy or overlooking. Overall, therefore, it is considered that the proposals would be acceptable in relation to living conditions of future residents and impacts on neighbouring residential amenity.

Impact on Highways and Public Rights of Way

- 2.55 Draft policy TI1 states that development should, in so far as its size, characteristic and location, be readily accessible by sustainable transport modes through the provision of high quality, engineered, safe and direct walking and cycling routes within a permeable site layout, contribute to sustainable transport proposals including off-site improvements to cycling and walking routes and public transport facilities, and make provision for secure cycle parking and storage in accordance with the Parking Standards. It states that the Council will safeguard the Public Rights of Way network, and other existing cycle and walking routes, from development that would compromise their use and will encourage their enhancement and extension. Draft policy TI3 requires proposals to meet the requirements of Kent Design Guide Review: Interim Guidance Note 3 in relation to vehicle parking.
- 2.56 Policy DM13 sets requirements for parking provision in compliance with SPG4 which sets out standards for the maximum number of parking spaces.
- 2.57 The site is adjacent to PROW ED15, which is located directly to the west of the site. Public Right of Way ED15 would be directly affected by the proposals. KCC PROW initially objected to the proposal as the PROW was not indicated on the proposals. The applicant has submitted an amended application which reflects the existence of the right of way and indicating that there would be new hard standing provided to the PROW adjacent to the site and that the details of which would be agreed with KCC. KCC PROW have also stated that in order to ensure public safety during development, the temporary closure of the route will be necessary.
- 2.58 A Transport Statement has been submitted as part of the application. No car parking is proposed. Cycle parking is provided at ground floor in a communal cycle store, with space for at least two cycles for the one- and two-bedroom apartments and one cycle for the studio apartments. Space for two mobility scooters in total is also proposed.
- 2.59 KCC Highways and transportation have commented that the vehicular trip attraction of the proposals is unlikely to be material compared to the existing permitted uses. The site is also readily accessible by alternative modes of transport to the car. Public car parks are available nearby as well as some on-street parking. On-street parking controls are also in place in this location.
- 2.60 Provision of the development with no parking is considered acceptable for the town centre location of the development and accords with Policy DM13 and emerging policy TI3. It should be noted that the NPPF states that 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. No such harm would be caused in this instance.
- 2.61 The Transport Statement indicates that servicing and refuse collection would take place from the Middle Street car park immediately to the rear of the site. This will need to be agreed with Dover District Council as operator of the car park.
- 2.62 KCC Highways have advised that should any alterations to the existing highway footways be proposed, the applicant should be advised that separate approval will be required from the highway authority for any such alterations. KCC Highways have also advised that demolition and construction management will need to be carefully considered and may require temporary closure of parts of the existing highway and public car park.

- 2.63 KCC Highways have no objections in respect of highway matters subject to conditions be secured for a construction management plan and provision and retention of cycle parking. Notwithstanding agreement that this condition should be secured, it is not considered that the requests relating to vehicle routing or wheel washing would meet the tests for conditions, either being unenforceable or unreasonable given the size of the site.
- 2.64 Given all of the above, it is considered that the proposals meet the requirements of policy DM13 and draft policy TI3 in relation to parking.

Housing Mix and Affordable Housing

- 2.65 Paragraph 64 of the NPPF states that to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.
- 2.66 Planning Practice Guidance sets out that national policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.
- 2.67 Core Strategy Policy DM5 and draft Local Plan Policy SP5 require 30% affordable housing for schemes of this size. Draft policy SP5 states that affordable housing shall be provided with a tenure split of 55% affordable/social rent, 25% First Homes (at 30% discount rate) and 20% other affordable home ownership products.
- 2.68 Core Strategy Policy CP4 and Policy H1 of the draft Local Plan require the mix of major residential development to reflect the Council's latest evidence of housing need and market demand. This latest evidence is the Council's Strategic Housing Market Assessment – Partial Part 2 Update, December 2019 ("the SHMA").
- 2.69 A viability assessment and an affordable housing statement were submitted during the course of the application. The viability assessment concludes that it would not be viable to provide affordable homes or an alternative payment. However, since these documents were received the applicant has notified the case officer that he wishes to provide affordable housing in line with policy requirements.
- 2.70 It is considered that the Vacant Buildings Credit, outlined in the NPPF would apply. The existing gross internal floor area is given on the application from as 700m². A gross internal area of approximately 1300m² is proposed as residential, this includes corridors and circulation space, communal refuse storage and cycle storage and residential storage in the basement.
- 2.71 Under guidance given in the NPPF and associated Planning Practice Guidance, only the increase in residential floor area should be subject to affordable housing contributions. The proposed gross residential floor area is approximately 1300m², this is approximately an increase of 46% above the existing gross internal floor area of 700 m². This would result in a reduction in the normal 30% affordable homes sought by 46%. In the case of 16 dwellings, 30% would be 5 no. affordable homes. A 46% reduction would equate to 3 no. affordable homes.

- 2.72 DDC Strategic Housing Manager has commented that provision of 3 no. homes for social rent in this location would address local housing need. DDC Housing would be willing to acquire the properties if there is no interest from other Registered Providers. Given the small number of affordable home proposed, it is not considered practical to follow the policy requirement of a tenure split of 55% affordable/social rent, 25% First Homes and 20% other affordable home ownership products.
- 2.73 The housing mix overall proposes 3 no. 2 bedroom properties, 9 no. 1 bedroom properties and 4 studio apartments. The mix does not meet the need identified in the Council's Strategic Housing Market Assessment – Partial Part 2 Update, December 2019, specifically that no 3 or 4+ bedroom properties are proposed. However, the small number proposed overall, and the fact that the properties are all apartments is noted and on this basis it not considered that it would be reasonable to refuse the application on this basis, particularly given the other benefits of the development.

Ecology

- 2.74 Paragraph 180 requires that when determining planning applications, local planning authorities should refuse planning permission if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for. It also states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.
- 2.75 Draft Policy SP14 echoes this requiring that every development connects to and improves the wider ecological networks in which it is located, providing on-site green infrastructure that connects to off-site networks. Proposals must safeguard features of nature conservation interest, and retain, conserve and enhance habitats. Draft Local Plan Policies SP14 and NE3 work together to ensure that the green infrastructure and biodiversity of the district are conserved and enhanced and seek biodiversity net gain of 10%. Draft Policy SP13 relates to protecting the districts hierarchy of designated environmental sites and biodiversity assets.
- 2.76 It is considered that there may be potential for the site to support protected or notable species. A survey of bat roosting potential was conducted. There were no signs of bats or birds on the building or roof exterior, as well as the interior of the roof void, or potential features that could provide access points. The survey report concluded that this building currently has no associated protected species interests.
- 2.77 Ecological enhancements have been proposed including bat and bird boxes. It is considered that the details of these, including exact locations, should be conditioned. It is not considered that the netting proposed for the flat roof areas should be included in the proposed ecological enhancements, as birds can become trapped in this.
- 2.78 The Environment Act 2021 set out a mandatory requirement for new development to provide a minimum of 10% biodiversity net gains; however, this requirement does not come into force until November 2023. The NPPF does, currently, seek developments to secure measurable net gains for biodiversity where possible, but does not set minimum requirements. The emerging plan, at policy NE1, will seek to achieve the nationally prescribed minimum of 10% Biodiversity Net Gain, which should be secured for 30 years. The proposal does not include BNG of 10%. However full weight cannot be given at this stage to draft policy NE1 and given the enhancements proposed is considered to meet current policy requirements.

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

Appropriate Assessment

- 2.79 It necessary to consider any likely significant effects of the proposed development in respect of disturbance of birds due to increased recreational activity on the Thanet Coast and Sandwich Bay SPA (as a designated European Site).
- 2.80 It is not possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA.
- 2.81 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 site and the integrity of the site itself.
- 2.82 A Strategic Access Mitigation and Monitoring Strategy (SAMM) has been prepared and adopted by the Council in order to monitor potential impacts on the qualifying bird species for the SPA arising from development in the district and to provide appropriate mitigation through a range of management and engagement methods. This is set out at Policy NE3 of the draft Local Plan, which provides the most up to date scientific knowledge of the issue. The site lies within the 9km Zone of Influence, within which mitigation will be required.
- 2.83 This mitigation comprises several elements, including the monitoring of residential visitor numbers and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education).
- 2.84 Having had regard to the proposed mitigation measures (to manage recreational activities from existing and new residents), it is considered that the proposed development would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA where it would make a contribution towards implementation of the SAMM.

Flood Risk and Drainage

- 2.85 Draft policy SP1 seeks to mitigate and adapt to climate change by ensuring development does not increase flood risk, including by taking a sequential approach to location of development. Draft policy CC5 states that development on sites at risk of flooding will only be permitted where it is demonstrated by a site-specific flood risk assessment that the development would not result in an unacceptable risk on flooding on the site or elsewhere. NPPF paragraph 167 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 2.86 The site is located within Flood Risk Zone 1, which has the lowest risk of flooding from rivers or from the sea. A detailed flood risk assessment was submitted with the application. The FRA concludes that the risk of flooding to the development from all sources is low, and that the development will not increase the risk of flooding elsewhere.
- 2.87 A surface water management strategy has been put forward within the FRA. The strategy includes the use of a surface water storage tank within the basement, the run-off to the public sewer would be controlled by a hydro-brake. The FRA states that the proposal would reduce the run-off rate by 50% of the existing site discharge rate. The scheme proposes to connect to the public sewer for foul drainage. Details of both

surface and foul drainage will be secured by condition, including requirements to ensure that the timing of delivery coincides with appropriate network connection.

Archaeology

- 2.88 Draft policy HE3 relates to archaeology. The site lies within an area of archaeological importance. Although there is little documentary evidence of archaeology on the site, in view of the demolition of the existing building, there is the possibility of archaeological remains being present following excavation for new foundations. Such a possibility could be controlled through an appropriate watching brief condition.

Contamination

- 2.89 The NPPF states (Paragraph 93) that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
- 2.90 The building has an oil storage tank in the basement and is suspected to contain asbestos. DDC Environmental health have been consulted and recommend that an asbestos survey and action plan is secured by condition. It is considered that a condition should be imposed which deals with previously unidentified contamination.

Infrastructure and Developer Contributions

- 2.91 Policy CP6 of the Core Strategy emphasises that development that generates demand for infrastructure will only be permitted if the necessary infrastructure to support it is either already in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- 2.92 Draft Local Plan Policy SP11 retains this approach, to ensure infrastructure is delivered at the right time in the right place to meet the growing needs of the district.
- 2.93 KCC have requested that, in order to meet the needs generated by the development, contributions would be required to deliver community learning, youth service, library services, social care and waste services. They have demonstrated that there is currently insufficient capacity to meet the needs generated by the development and that the contributions requested would allow for the infrastructure upon which the development would rely to be provided.
- 2.94 As set out earlier in the report, emerging policy NE3 requires that developments within a 9km zone of influence around Thanet Coast and Sandwich Bay are required to provide contributions towards mitigating impacts on the SPA, in accordance with table 11.2 within the regulation 19 stage draft Local Plan (as amended).
- 2.95 Draft policy PM4 requires that sports facilities are provided. The Sport England Sport Facility Calculator has been used to assess the needs arising from the development. The projects identified for this contribution, which would amount £31,696 in total based on 16 dwellings being delivered. As set out in the Infrastructure Delivery Plan/Infrastructure Delivery Schedule these contributions would go towards Drill Field and Tides leisure Centre.
- 2.96 Draft policy PM3 requires that residential development of ten or more dwellings will be required to provide or contribute towards the provision of Open Space that meets the needs of that development, in addition to appropriate maintenance costs. Contributions are sought towards other Open Space, including accessible green

space, children's equipped play space and allotments/ community gardens. The projects that the contributions will go towards are at Victoria Park.

2.97 As set out previously in the report, the development would deliver affordable housing, with the vacant buildings credit applied this would equate to a total of three affordable properties.

2.98 In light of the consultation responses received and planning assessment above, the following obligations (which are considered to accord with the tests for requesting contributions) would be required to be secured through a S106 agreement if planning permission was to be granted:

Matter	Contribution
Community Learning	£262.72 Towards additional equipment, services, and resources for the new learners at Deal Adult Education Centre
Youth service	£1,048.00 Towards additional equipment and resources for the Dover Youth Hub – Linwood, Deal
Library book stock	£887.20 Towards additional services, resources, and stock (including digital infrastructure and resources) to be made available at Deal Library
Social care	£2,350.08 Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within the District
Waste	£871.52 Towards works at Dover HWRC to increase capacity.
Thanet Coast and Sandwich Bay Special Protection Area SAMM	£2,128
Sports facilities/ playing pitches	£31,696
Open space	Accessible Greenspace £1,010.90 Children's Equipped Play Space £3,640.63 Allotments/Community Gardens £17.00
Affordable housing	Provision of 3 no. 1 bedroom apartments for affordable rent.

3. Conclusion

3.1 Paragraph 11 of the NPPF sets out that when the local policies are considered out of date that any decision should rest on the tilted balance so that development should be granted unless "any adverse impacts of doing so would significantly and

demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.” As the most important policies in determining this application are considered out of date, paragraph 11 of the NPPF is relevant.

- 3.2 The proposal would provide 16 homes a sustainable town centre location. 3 of these would be for social rent, addressing a local need for small homes, within the urban area of Deal. The proposal accords with draft policy SP4 to which moderate weight can be given. The proposal would provide 3 flexible commercial units and would accord with draft policy SP7 and SP9. The provision of a mixed-use scheme in this location would contribute to the vitality of the town centre. The design approach is considered to be appropriate and overall would conserve the character and appearance of the Conservation Area and the settings of nearby listed buildings.
- 3.3 The previous permission granted for a similar scheme under DOV/18/01169 is a material consideration in the decision-making process, which carries weight in favour of the scheme. The above factors taken as a whole are considered to provide significant weight in favour of the proposal, with significant socio-economic benefits being provided by the development.
- 3.4 It is considered that the adverse impacts of the scheme relate to the loss of the building itself, as a non-designated heritage asset, and to the principle of demolition rather than adaption and conversion of the existing building. However, it is noted that it has been set out in the submission that conversion would be unviable.
- 3.5 Given the above, it is considered that the adverse impacts of scheme would not significantly and demonstrably outweigh the benefits. Accordingly, the proposal would comprise sustainable development and in light of the above it is recommended that planning permission is granted subject to development contributions being secured through a S106 Agreement and the conditions set out below.

g) Recommendation

- I Subject to completion of S106 Agreement in relation to Development Contributions as set out in the report above, **PERMISSION BE GRANTED** subject to the following conditions:

- 1) Time limit
- 2) Approved plans
- 3) Samples of materials
- 4) Details of windows (including the depth of reveals), doors, balconies, canopies, external services, meter cupboards and security shutters
- 5) Details of privacy measures to west elevation
- 6) Sound insulation scheme
- 7) Provision of refuse/recycling storage
- 8) Provision of bicycle storage
- 9) Details of surface water management including basement tank
- 10) Details of foul drainage
- 11) Construction management plan
- 12) Archaeological watching brief
- 13) Internal and external photographic record
- 14) Details and provision of ecological enhancements
- 15) Affordable housing provision
- 16) Housing to meet Building Regulations M4(2) standard
- 17) Asbestos containing materials (ACM) survey and action plan
- 18) Previously unidentified contamination

- 19) Provision of broadband
- 20) Details of works to adjacent PROW

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

Case Officer

Nicola Kingsford