

- a) **DOV/22/01701 - Full Application: Erection of first and second-floor extensions, installation of new shopfronts, access doors, additional windows, to form 5 retail units and 17 residential dwellings**

**DOV/22/01702 - Listed Building Consent: Alterations and extension to form commercial and residential units. Proposed second-floor extension. Internal works to include demolition of existing walls and partitions and erection of new to all floors. External works to include installation of new shopfronts; insertion of 2 windows to ground floor rear elevation**

**74-80 High Street and 67 Middle Street, Deal**

Reason for report – Number of contrary views (25)

- b) **Summary of Recommendation**

Planning permission and listed building consent be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP4, DM1, DM5, DM11, DM13, 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,R1, 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, 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, 208

National Design Guide & National Model Design Code (2021)

Dover Guidance on Shop Fronts and Signage within Conservation Areas Supplementary Planning Document – May 2012

- c) **Relevant Planning History**

00/01288 - Provision of coffee shop and WC within existing retail store and Insertion of vent and flue in external wall – Grant Permission

90/00841 – Proposed extension to the store plus a floor of offices – Appeal allowed

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

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

22/01701 – Full Application

KCC Highways – No objection to nil parking provision and deliveries, servicing would be in line with existing arrangements – No objection, subject to conditions

Southern Water – Request informative

KCC Infrastructure – Contributions requested, as set out within the report

Deal Town Council – Object due to the cramped internal arrangements and no evidence of adequate sound proofing between the individual flats. No adequate fire escape.

Kent Police – Request condition for Secure by Design to be incorporated into the scheme.

Kent Fire and Rescue – Confirm that access requirements for the Fire and Rescue Service have been met.

Environment Agency – No comments to make

KCC Drainage – Comments outstanding

12 Representations for objection have been received for the full application and 13 representations to the listed building consent application have been received and are summarised below:

- Loss of retail
- Loss a site which was previously used for a chain store
- Lack of parking
- Loss of discount shop
- Over development of the site
- Lack of infrastructure for additional residents
- Congestion
- Out of character with the High Street
- Impact of the buildings works on the town
- Fire and safety risk
- Loss of privacy and light
- Access to cycle storage seems restricted

4 Representations in support have been received and are summarised below:

- Welcome boost to the regeneration of the high street
- Provide opportunities for more and more diverse shops
- Positive enhancement of the area
- Will improve the look of the high street
- Returns the shop fronts to a more traditional frontage
- Potential economic benefits
- Lack of smaller housing currently available and the smaller units would be appropriate to serve this need

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

The Site

- 1.1 The application site is a two and three storey terraced building on a corner plot of High Street, Market Street and Middle Street, Deal. 82 and 84 High Street form a single shop unit on the ground floor with ancillary rooms at first and second floor levels above. The remaining buildings all form part of the single, and very substantial retail unit, with active floorspace at both ground and first floor levels, with the remaining areas, at ground, first and second floor levels, being used for ancillary office and storage purposes.
- 1.2 The site is located on the east side of the High Street, within the Middle Street Deal Conservation Area and is part of the Article 4 Direction. Part of the building, 67 Middle Street, is a Grade II listed building. The listing for the building states:
- 'Corner building. 3 storeys and basement yellow brick. 2 altered sashes. Simple round-headed doorcase. The elevation to Middle Street has 2 sashes, with round heads on the ground floor. Included for group value.'*
- 1.3 In terms of the external appearance of the site, the retail unit has an extensive, aluminium shopfront and canopy on 74 - 78 High Street which is carried around the corner into Market Street. This finishes about 12.5m along the frontage, followed by a short section of rendered wall containing a single, timber door; then a further section of shopfront, this time in timber, comprising three sections, divided into five panes, a low stallriser, and a pair of timber doors.



**Figure 1: Existing High Street Elevation**

- 1.4 The flank elevation of 67 Middle Street is mostly constructed of brick and has a more residential appearance. The ground floor contains a central, arched timber and glazed door, with a single window to either side, one comprising a single, mirrored pane, with the second being bricked up, forming a blind opening. This listed building is three storeys in height to the Market Street frontage, with a pair of timber sash windows at first and second floor levels, aligned above the central door and left hand, mirrored opening.

### The Proposal

- 1.5 The application is for the creation of a 2<sup>nd</sup> floor extension on 74-80 High Street, with internal works to create 17 no. dwellings on the upper floors and 4 no. commercial units at ground floor fronting onto the High Street and a fifth commercial unit facing on to Market Street. Access into the building would be via King Street, with a centrally located residential access core with stairs and a lift. Four of the commercial units would have their own entrances onto High Street, with the fifth unit entrance fronting on to King Street. There would be access at the side of the building from King Street to the cycle and refuse stores.

## **2. Main Issues**

- 2.1 The main issues for consideration are:

- The principle of development
- Design and Heritage
- Residential Amenity
- Highways and Parking
- Housing mix and affordable housing
- Ecology
- Other Matters: Flood risk and drainage, Archaeology, Contamination and Infrastructure and Developer contribution

### **Assessment**

#### Principle of Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that,
- “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 The High Street frontage of the building lies within the Secondary Retail Frontage (policy DM22) with the site located within the primary shopping area defined in the Reg 19 Draft Local Plan (Draft policy R1). A number of representations have been received regarding the loss of the current large retail unit, however, the proposal is to maintain retail and commercial uses on the ground floor, with residential accommodation on the upper storeys. Paragraph 86 of the NPPF supports a positive approach to town centres and their growth, including the use of residential development in ensuring the vitality of the town centre. Policy R1 of the Reg 19 Draft Local Plan supports the use of upper floors for residential with the ground floor uses to remain within use class E. The site lies within the settlement confines of Deal and the creation of residential accommodation in this

location would accord with Policy DM1 of the Core Strategy and the emerging Local Plan. The retail and commercial on the ground floor would maintain and enhance the vitality of the town centre. The principle of the development is acceptable.

### *Design and Heritage*

- 2.4 The site is located within the Middle Street Deal Conservation Area (subject to an Article 4 Direction), part of the building is listed, and the site is in close proximity to a number of Listed Buildings.
- 2.5 In terms of external alterations, the application is proposing the following elements:
- Additional storey on the High Street frontage
  - Removal of the parapet and mansard roof and creation of a full 3rd storey on the market street elevation
  - Removal of the large aluminium shop frontages, with the large existing retail unit broken up into smaller five smaller commercial spaces
  - Existing shop frontage would be replaced with a more traditional retail frontage
- 2.6 The NPPF outlines at paragraphs 199 and 200, that great weight must be given to the conservation of listed buildings irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. The NPPF also 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. Under Section 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, sets out requirements relating to the assessment of the impact on heritage assets. In particular, special regard must be had to the desirability of preserving the listed building and its setting or any features of special architectural or historic interest which it possesses, and special attention must be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 2.7 Draft policies HE1 and HE2 relate to protection of heritage assets and conservation areas.
- 2.8 Firstly, in terms of the replacement shop frontage, policy DM20 sets out applications for new shopfronts and alterations to existing shopfronts will only be given if the proposals respect the composition, materials and detailed design of the building and the context provided by the street in which they are located. In terms of the shop frontage, the proposed alterations to the external elevations of the building, would be visible from the Conservation Area. The changes that are proposed is the removal of the aluminium frontage for a more traditional timber frontage and removal of the existing large canopy. These changes are considered to have a positive impact, and large-scale drawings of the replacement frontages, including materials will be required by condition.



**Figure 2: Proposed elevations and retail frontage – High Street and Market Street**

- 2.9 In terms of the additional storeys to the building, the feature of the town centre and the Conservation Area, is for buildings on corner plots to be landmark buildings and to be taller than properties in the terrace. As shown in figure 2, whilst the additional storeys on the High Street and Market Street, will add to the height of the building, this would not exceed the height of the corner building, which would remain the dominant feature within the streetscene.
- 2.10 The proposal also includes an additional storey (third storey on the rear of the building which faces on to Middle Street). Whilst this is a bulky addition to the building, it is set back from the frontage and due to the tight nature of the surrounding roads, the additional storey would not be widely visible from the surrounding area.
- 2.11 The external alterations in the form of the additional storeys, would inevitably result in some harm to the Conservation Area. It is therefore a case of minimising the impact upon the heritage assets and securing sensitive design, whilst balancing the resultant harm against public benefits. It is considered that the scale of the development, with the appropriate design and materials to be conditioned, would serve to minimise the impact upon the heritage assets. In addition, the removal of the existing aluminium frontage with replacement traditional shop frontage and the removal of the canopy, would have a positive impact on the setting of the heritage assets.
- 2.12 Whilst having special regard to the preservation of the setting of the listed building and the Conservation Area, overall, it is considered that the public benefits of providing residential, including affordable housing in a highly sustainable location and the associated social and economic benefits provide for clear and convincing justification for some low level impact on the heritage

assets, and these benefits outweigh this less than substantial harm to the listed buildings and Conservation Area in line with Paragraph 208 of the NPPF.

### *Listed Building Consent*

2.13 In terms of alterations to the listed part of the building, the main considerations are the impact that the proposed alterations would have upon the special architectural interest of the building. In terms of the internal alterations, the Council's Senior Heritage Officer has been consulted and considers the internal alterations, to the listed building only, would result in a significant benefit to the significance of the listed building reinstating historic elements. This includes reinstating the historic staircase and restoring the historic proportions and planform (the outline viewed from above) of the listed building.

2.14 The proposal's external alterations to the listed building include the following elements:

- Insertion of 2no ground floor Middle Street elevation windows
- Replace 2no ground floor windows and front door to Market Street elevation.



**Figure 3: Existing Market Street and Middle Street Elevations**



**Figure 4: Proposed Market Street and Middle Street Elevations**

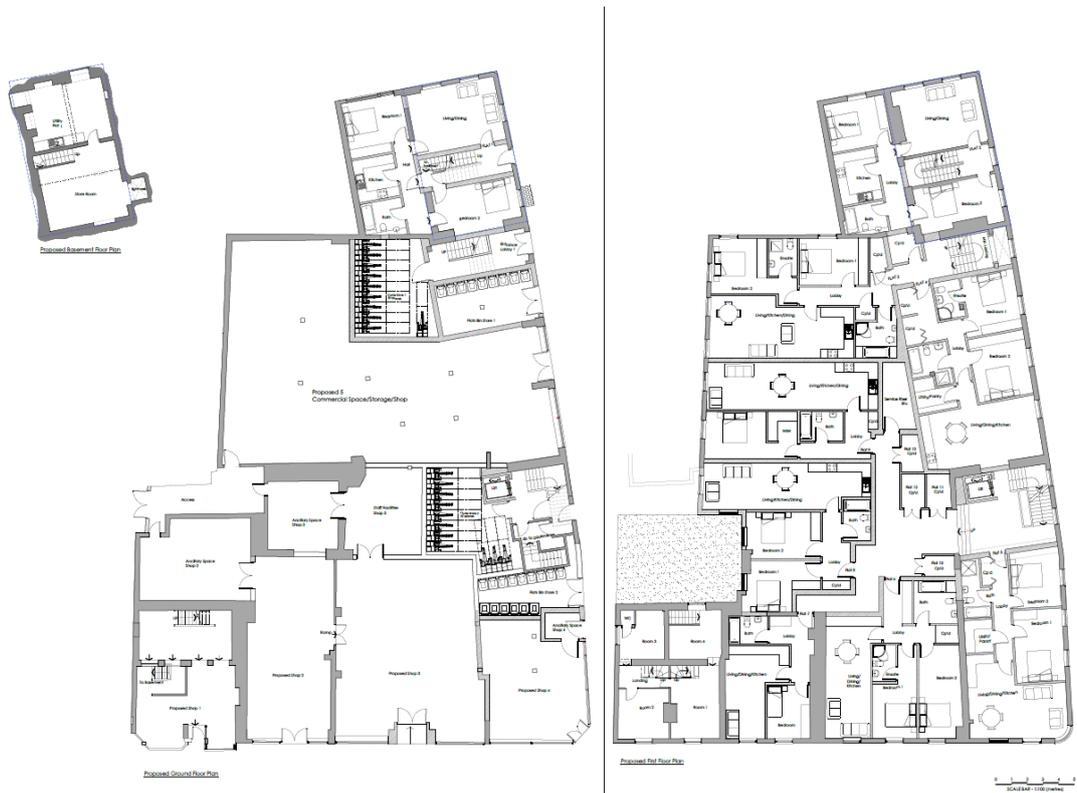
- 2.15 The Council's Senior Heritage Officer has confirmed that subject to conditions, the external works to the listed building would result in no harm to the significance of the listed building as defined by paragraph 202 of the NPPF.
- 2.16 In summary, officers are of the view that the proposal would provide a well-designed development which 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. In reaching these conclusion, regard has been had for the duties under Section 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Residential Amenity

- 2.17 Policy PM2 of the draft Local Plan attracts limited weight as the Nationally Described Space Standards (NDSS) set out that their use is for when the Local Plan is adopted. The applicant has provided the internal space for each flat that shows the majority of the flats would meet those standards. Whilst the Reg 19 Local Plan is a material consideration, the NDSS sets out that the space standards should be used "if a local authority has adopted the space standard in its Local Plan".
- 2.18 Given that the Reg 19 Plan is yet to be formally adopted and doesn't carry full weight, it is not considered that the shortfalls of flats 15 and 16 by 4.45sqm and 2.39sqm below the standard would be sufficient to warrant a robust reason for refusal, albeit it counts against the scheme. It is however important to consider the layout, location, and orientation of the units, particularly for the flats above, to ensure that they provide sufficient useable space, light, and that sufficient outdoor amenity space is available for future residents. The proposed layout and flats designs, demonstrate a good standard of accommodation is proposed for

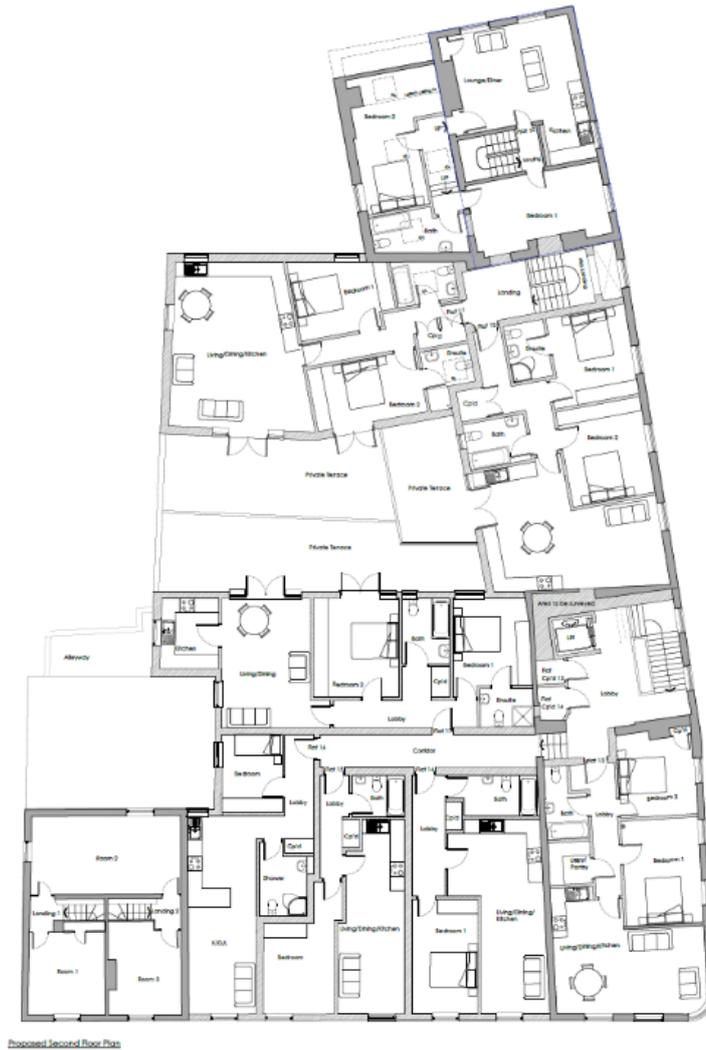
the future residents, and ensures an acceptable level of amenity for future residents would be provided.

- 2.19 In terms of existing residents, neither the subdivision of the existing retail shop, nor the introduction of residential accommodation in this town centre location are likely to result in any significant, additional impact in terms of activity, noise and disturbance. The proposed external alterations, including the extensions, are separated by a sufficient distance for neighbouring residential properties so not to cause significant harm in terms of loss of light or loss of privacy. The proposal would be in accordance with policy PM1 of the Draft Local Plan.
- 2.20 In terms of noise impact between the retail and commercial units and residential above, DDC Environmental Protection has been consulted and recommends a condition for details of sound insulation be provided.
- 2.21 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



**Figure 5: Proposed Ground and First Floor Plans**

considered that the proposals would be acceptable in relation to living conditions of future residents and impacts on neighbouring residential amenity.



**Figure 6: Proposed Second Floor Plan**

### Highways and Parking

- 2.22 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. The site does not propose any new or altered access to the highway, instead relying on the existing highway network, public transport links and public car parking.
- 2.23 Further details, including a Parking Beat Survey has been submitted by the applicant. KCC Highways has advised that sufficient overnight parking is available within the vicinity of the site and that they have no objection to nil parking provision.
- 2.24 In terms of deliveries, servicing and refuse collection, this is proposed to operate as per the current arrangements, such that no additional impact would result.

KCC Highways has advised that they have no objection to these arrangements as there will be no further disruption to the highway network.

- 2.25 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

- 2.26 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.
- 2.27 Core Strategy Policy CP4 and Policy H1 of the draft Local Plan requires 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").
- 2.28 The housing mix overall proposes 1 and 2 bedroom properties. 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 is not considered that it would be reasonable to refuse the application on this basis, particularly given the other benefits of the development.
- 2.29 The Council's Strategic Housing Manager has confirmed that there is a need for smaller affordable units. The application is proposing 17 residential units, generating a need for 6 affordable units to be provided in accordance with the development plan policies. The affordable housing provision will be secured by S106 agreement with the final details of the affordable units, including sizes and management will be secured by condition.

#### Ecology

- 2.30 There is a need to consider the likely significant effects on European Sites and the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay. The emerging Local Plan requires that developments within 9km of the site would cause recreational impacts for which mitigation is required.
- 2.31 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.
- 2.32 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).

- 2.33 The site lies within the 9km Zone of Influence, and in order to mitigate against the potential for in-combination effects of new development, through the pathway of recreational pressure, on the Thanet Coast and Sandwich Bay SPA. The tariff will be collected through the S106 agreement.
- 2.34 In terms of onsite ecology, the proposal is the conversion of an existing retail building within a town centre location. The works proposed relate to internal works and the creation of additional storeys to create the residential uses on the upper floors. It is not considered that the characteristics of the site and its surrounds would be a suitable habitat for protected species, having had regard for Natural England's Standing Advice. Ecological enhancements for the extension element of the proposal will be requested by planning condition.

#### Other Matters

- 2.35 The site lies in Flood Risk Zone 1, which has the lowest risk of flooding and is therefore 'sequentially preferable' for the provision of housing in terms of flood risk. With regard to SUDS, comments from KCC Drainage and have not yet been received. Given that the application is a brownfield site for the conversion of an existing building, and that the additional storey elements of the proposal would not result in any additional floorspace at ground level, it is unlikely that the development would be prevented due to drainage. It is considered that it would not be unreasonable in the circumstances to advise that the application be granted subject to no objection being received by KCC SUDS and any requested conditions by KCC SUDS being imposed.
- 2.36 The site lies within an Area of Archaeological potential. However, there is no demolition proposed, and no floor space is proposed on the ground floor. Therefore, is it not necessary to require archaeological details for this application.
- 2.37 In terms of contamination, the application is for the conversion of the existing building and the creation of new storeys on the existing building. Environmental Projection have not raised any concerns with regard to contamination and the proposal is considered to be in accordance with NPPF Paragraph 93.
- 2.38 In accordance with Policy DM27 of the Land Allocations Local Plan, the development (as of more than five dwellings) is expected to provide open space on site, or a contribution towards off-site provision, to meet the demand it would generate. Without any on site open space, contributions towards off site provision should be sought. The exact and amount and for which projects is currently waiting for confirmation and will be reported verbally to the planning committee.
- 2.39 As required by policy CP6 of the Core Strategy, Draft Local Plan policy SP11, policy PM4 and DM3 and the consultation requests that have been submitted by infrastructure providers the consultation requests that have been submitted by infrastructure providers, the following contributions are to be secured through a S106 agreement, or condition:

<b>Matter</b>	<b>Contribution</b>
Secondary Education	£14,755– Towards Deal & Sandwich Secondary Schools
Community Learning	£279.14 – Towards additional resources and equipment, and

	classes at Deal Adult Education Centre
Youth Service	£1113.50 – Towards additional resources for youth service in Dover District
Library Bookstock	£942.65 - Towards addition resources at Deal library
Social Care	£2,496.96 towards specialist care accommodation in Dover District
Waste	£952.99 towards improvement works at Dover HWRC to increase capacity
Open Space	TBC
Affordable House	Six units as outlined above

- 2.40 Kent Fire and Rescue have confirmed that access requirements for the Fire and Rescue Service have been met.
- 2.41 A number of representations have been received expressing concern with the loss of the existing tenant of the retail space. However, the loss of a specific retail tenant is not a planning consideration.

### **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 17 homes in a sustainable town centre location. Six of these would be for affordable housing, 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 reconfigured flexible retail/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. The removal of the existing aluminium frontage with a more traditional design would have a positive effect on the Conservation Area.
- 3.3 The Council’s Senior Heritage Officer is satisfied that the external and internal changes to the listed building would result in a significant benefit to the significance to the listed building by reinstating historic elements.
- 3.4 Given the above, it is considered that the adverse impacts of the 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 PERMISSION BE GRANTED for application reference 22/01701, subject to completion of S106 Agreement in relation to Development Contributions as set out in the report above, to KCC SUDS raising no objection, and to the following conditions:

- 1) Time limit
- 2) Approved plans
- 3) Samples of materials
- 4) Details of windows for the full element (including the depth of reveals), doors – Large scale plans
- 5) Sound insulation scheme
- 6) Provision of construction vehicle loading/unloading and turning facilities, including construction management plan
- 7) Details and provision of ecological enhancements
- 8) Affordable housing provision
- 9) Housing to meet Building Regulations M4(2) standard
- 10) Joinery Details – Large scale plans
- 11) Shop fronts - Large scale plans
- 12) Refuse Storage
- 13) Cycle Storage

LISTED BUILDING CONSENT BE GRANTED (for DOV/22/01702) subject to conditions:

- 1) Standard time condition
- 2) List of approved plans
- 3) Prior to commencement details of:
  - a. Mechanical ventilation
  - b. New joinery
  - c. Sections of the buildings to show insulation, weatherproofing, or for other purposes
  - d. Details of proposed interface of the historic staircase

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**

Adam Reynolds

*The Human Rights Act (1998) Human rights issues relevant to this application have been taken into account. The Assessment section above and the Recommendation represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).*

