

- a) **DOV/19/01025 – Erection of 32 dwellings, formation of new vehicle and pedestrian accesses, associated parking and landscaping - Land Adjoining 74 Stanhope Road, Dover**

Reason for report: To report updates to Members.

- b) **Summary of Recommendation**

Planning Permission be Granted, subject to completion of a S106.

- c) **Addendum to Committee Report of 3 September 2020**

Introduction

- 1.1 This application was originally presented to Planning Committee on 3 September 2020 when it was recommended that planning permission be granted, subject to completion of a S106. A copy of the committee report included within the published agenda is at Appendix 1 and a copy of the Minutes of the meeting are included at Appendix 2.
- 1.2 At the meeting, Members resolved to approve the application, subject to a Section 106 legal agreement being entered into to secure the necessary planning contributions, provision of affordable housing, the contribution to the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy and the provision, retention and maintenance in perpetuity of the amenity open space (including an equipped children's play area and accessible green space); and subject to the imposition of 28 conditions.
- 1.3 Following the Planning Committee meeting, a number of third party representations were received which raised concerns regarding the potential for the site to provide habitat for protected species and provided evidence which was not previously available. The committee report had concluded that there were no ecological constraints to development. Following the receipt of this new information, it was concluded by officers that the impact on protected species required further assessment. As the impact on protected species is an important material consideration, it is appropriate to report the application back to Planning Committee.
- 1.4 In addition, due to the passage of time since the original resolution at Planning Committee and the current stage of the Draft Local Plan, it is necessary to take into account the emerging Draft Policies, and in particular their implications upon the provision of affordable housing and the applicable financial contributions for this scheme.
- 1.5 This addendum will provide an update regarding the additional information submitted on ecology, the response to this information and the applicable Draft Policies and contributions implications.

Additional Consultee Responses and Representations

- 1.6 Following the Planning Committee meeting, the following representations were received (summarised, with full copies available on the planning file):

DDC Planning Policy – This response includes all requirements for open space and sports provision as set out in Local Plan submission Reg 19 Policies PM3 and

PM4, in addition to any other identified infrastructure requirements relevant to the location of the scheme.

The site is designated as Open Space and therefore falls under the protection of DM25 of the Core Strategy (2010). However in previously resolving to grant permission for housing on the site the Council had accepted in principle the loss of the quantum of Open Space which the site currently provides. The advice is therefore provided on that basis rather than readdressing the principle of the loss of the Open Space, as per DM25. The following Open Space Contributions are sought:

Childrens Equipped Play Space - £13,646.79 – Towards improvements at Connaught Park play area, where improvements to the range and condition of play equipment are identified as necessary, given the sites role as a strategic play site (If an LAP is not provided on site).

Sports – Playing Pitches: Natural Grass Pitches - £8,207 Capital Cost and £1,709 Lifecycle cost (per annum) – Towards the identified need to improve the quality of the poor rated green at Dover Bowling Club.

Sports Halls - £15,275 – towards the future need for a new sports hall in the Dover Town area.

Strategic Highways Tariff: Draft Local Plan Policy SP12 sets out the requirements for strategic highway mitigation and a requirement for new development to make contributions towards mitigation proposed on the Strategic Highway Network at Duke of York and Whitfield Roundabouts. The tariff for the Dover Urban Area is set at £1000 per dwelling due to the level of trips generated from new development on these junctions. Total contribution requirement - £32,000

Natural England – It is the LPA's responsibility to ensure that protected species issues are fully considered having issued Standing Advice to assist LPA's.

NHS Kent and Medway - has assessed the implications of this proposal on delivery of healthcare services and it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution. Healthcare services in the community - £29,304 – Towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.

KCC Contributions – has assessed the implications of this proposal in terms of the delivery of its community service and is of the opinion that it will have an additional impact on the delivery of its services. The following contributions are requested:

- Secondary Education Extension - £5, 329.27 per applicable house x32 – Total £170,536.64 – Towards the expansion of secondary schools in the Dover non-selective and Dover District selective planning groups
- Special Education Needs & Disabilities (SEND) - £559.83 per applicable house x32 – Total £17,914.56 – Towards the provision of additional SEND places and/or SEND facilities within Dover District to serve the needs of the development
- Community Learning and Skills - £34.21 per dwelling x32 – Total £1,094.72 – Towards additional equipment and resources for Adult Education Centres serving the development, including outreach provision

- Integrated Children's Services - £74.05 per dwelling x32 – Total £2,369.60 – Towards additional equipment and resources for the integrated Children's Services in Dover District including outreach provision
- Library, Registrations and Archives Service - £62.63 per dwelling x32 – Total – £2,004.16 – Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Dover Library
- Adult Social Care - £180.88 per dwelling x32 – Total £5,788.16 – Towards specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, sensory facilities, and changing places within the District
- Waste - £52.00 per dwelling x32 – Total £1,664.00 – Towards Dover HWRC to increase capacity

Third Party Representations – Ten letters of objection were received, raising the following material considerations:

- Parking availability in the area
- Traffic
- Access on Stanhope Road and within the site
- Loss of habitat on the site and impact on protected species
- The ecological surveys are out of date
- Green space on site
- Noise and pollution
- Loss of open space
- In light of new evidence a LPA has the discretion to reconsider its decision

One neutral representation was received which raised concerns with some sections of the submitted Preliminary Ecological Appraisal. In particular, that records were not sought from the Kent and Medway Biological Records Centre and the dense scrub to the north should have triggered a Phase 2 survey for reptiles.

Updated Policy Position

- 1.7 The Submission Draft Local Plan is now a material planning consideration in the determination of this planning application. At the time of the first report to committee the emerging Local Plan was at an early stage in the process and could not be considered material to an application. At this stage in the plan making process the policies of the draft can be afforded moderate weight, but this depends on the consistency with the NPPF and the evidence base. The relevant policies are: SP1; SP2; SP3; SP4; SP5; SP11; SP13; SP14; CC1; CC2; CC4; CC5; CC6; CC8; PM1; PM2; PM3; PM4; PM6; PM5; H1; TI1; TI2; TI3; NE1; NE3; NE4; and HE3.
- 1.8 The evidence base being used to support the emerging plan and draft Local Plan policies do, however, alter the position on the need to provide affordable housing on the site and the required financial contributions that now need to be sought to make the development acceptable. Other third party contribution calculations and the required figures have also been updated within this 2 year period. These material considerations will be discussed in detail below.

Response to Additional Information and Policy Position

Ecology

- 1.9 The resolution of the Planning Committee was to approve the application, subject to conditions and the completion of a S106 agreement. Before the S106 agreement was resolved, third parties submitted new information in relation to reptiles on site, which was material to the assessment of the application, and had not been taken into account at the time that the application was considered at Planning Committee. It was therefore considered by officers that proceeding to the formal determination of the application would be open to legal challenge and the appropriate course of action would be to withhold the determination until such time as the impact on reptiles had been fully considered. Given that the authority for determining the application rests with Planning Committee, the application is now reported back to Planning Committee for assessment.
- 1.10 The applicant was asked to provide additional ecological information to support the application. The application is now supported by a Preliminary Ecological Appraisal Report, (April 2022) and a Reptile Mitigation Strategy (January 2023). These reports have been reviewed by DDC's Senior Natural Environment Officer (SNEO). Slow-worms and common lizards are confirmed as present on the site. Whilst present in low numbers, the SNEO has advised that mitigation will be required to ensure there are no protected species offences as a result of the proposed development. The strategy recommends that the reptiles are translocated off-site to a reptile receptor site, due to insufficient habitat being retained following development, to accommodate displaced reptiles. This mitigation approach has been accepted; however, it is necessary to agree the details of the reptile receptor site, which will need to meet the requirements outlined in the submitted report, prior to determination of the application. This will need to be secured through the S106 agreement, including appropriately funded long term management. The applicant submitted an update to the Reptile Mitigation Strategy (March 2023) which identifies a translocation site near Folkestone, which is considered capable of supporting the reptile populations from the site. The SNEO has advised that the Strategy will adequately protect reptiles on the site from harm and provide a suitable location into which they can be translocated. The use of the proposed site in Folkestone and Hythe District for the purpose of a reptile receptor site must be secured by legal agreement. Subject to the reptile translocation being secured by legal agreement, it is considered that the development would not have an unacceptable impact on reptiles. The updated report and mitigation measures accord with the relevant legislative requirements, national policy and guidance, along with paragraphs 174 and 180 of the NPPF and also draft policy SP14 of the Local Plan.



Figure 1 – Proposed layout plan (as previously considered by Members)

Updated Development Contribution Requirements

- 1.11 The development will also need to deliver the infrastructure necessary to make the development acceptable in planning terms. The previous report to Planning Committee outlined the developer contributions which would be required. However, due to the passage of time, these figures now require refreshing. The NHS, KCC Infrastructure and DDC Planning Policy have been reconsulted and were asked for updated information to identify the contributions and projects required. The recommendation requires that these contributions are secured by legal agreement.
- 1.12 The open space requirements have changed since the previous application was considered. DDC Planning Policy have advised that the following should be sought: £13,646.79 towards children's equipped play space, if a LAP is not provided on site; £9,916 to improve the bowling green at Dover Bowling Club and £15,275 towards a sports hall in Dover. In relation to children's equipped playspace, the application proposes a LAP within the centre of the site and, as such, a contribution towards off site play space is not necessary.
- 1.13 Policy SP12 of the Draft Local Plan now requires new development to contribute towards mitigation proposed on the Strategic Highway Network at Duke of York and Whitfield Roundabout. The tariff for the urban area of Dover is £1000 per dwelling due to the level of trips generated from new development on these junctions. Accordingly, the total contribution requirement for this scheme is £32,000.

- 1.14 In terms of the KCC Contributions, greater applicable contributions are required in comparison to the 2020 contribution requirements. The following is sought: £170,536.64 towards secondary education extension; £17,914.56 towards Special Education Needs & Disabilities; £1,094.72 towards Community Learning and Skills; £2,369.60 towards Integrated Children's Services; £2,004.16 towards Library, Registration and Archives Services; £5,788.16 towards Adult Social Care and £1,664 towards Waste.
- 1.15 The updated applicable NHS consultation response sets out that a financial contribution of £29,304 is required towards healthcare services provided in the community to mitigate the impact of the development upon delivery of healthcare services.

Affordable Housing

- 1.16 Policy SP5 of the Draft Local Plan requires the provision of 30% affordable housing on schemes of 10 dwellings or more, with the exception of the Dover Urban Area, where there is no requirement for affordable housing to be provided, due to the difficulties with site viability and following a detailed viability assessment to support the emerging Local Plan. The original scheme proposed an adopted Policy DM5 complaint provision for affordable housing to be secured through the s106 agreement. Given the status of the Submission Draft Local Plan, Draft and an up to date evidence base, Policy SP5 can be afforded significant weight and is considered to supersede the requirements of adopted Policy DM5. As the application site is located within the Dover urban area, the provision of affordable housing is no longer required for this scheme and accordingly it is appropriate that the s106 agreement is revised to reflect this.
- 1.17 The applicant has been advised of this position and officers are in the process of confirming that they would be willing to meet the revised applicable financial contributions, to be secured by an updated S106 legal agreement.
- 1.18 It has also been identified by officers and considered necessary, due to the policy changes, and particularly the revised position on affordable housing provision on the site that now requires nil provision, to undertake a further period of public consultation. This is due to the provision, or otherwise, of affordable housing being a material planning consideration and the public need to be given the opportunity to be advised accordingly. This is a further site and press notice and notification to Dover Town Council for a statutory 21 day period.
- 1.19 As this re-consultation requirement was identified at a late stage in the revised assessment process, the recommendation to Members will also need to be updated to reflect the ongoing public consultation process, which although commenced, will expire after the application is reported to planning committee. The proposed recommendation therefore asks Members to delegate the final decision to the Head and Planning and Development, notwithstanding any additional third party representations that may be received. However, this would be on the basis that no new and/or significant material planning considerations are raised and no substantive objections to the loss of affordable housing provision on the site are received. This is considered appropriate on this case, as most material planning considerations were either addressed in the 2020 planning committee report at (Appendix 1) where Members resolved to approve the application or have been amended accordingly within this update report. It should also be noted again that the provision of affordable housing on the site cannot now be required or justified

on material planning grounds, and this is the only reason why a re-consultation is now considered to be required.

Update to Planning Conditions

- 1.20 The original report also recommended a number of suggested planning conditions. Including that EVC cabling be secured. However, this is now addressed by Building Regulations and, consequently, this condition has been removed. Additionally, a number of other conditions have been amended and wording adjusted to reflect ongoing changes to guidance and established practice.

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

- 1.21 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. A Strategic Access Mitigation and Monitoring Strategy (SAMMs) has been adopted 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.
- 1.22 The previous position on the application was to secure a contribution towards the SAMMs mitigation. However, the Emerging Local Plan has now been through the Regulation 19 consultation process and the Local Plan inquiry has commenced. Emerging policy NE3 is identified to have significant weight and supersedes to requirement for all housing in the district to make a contribution, as the evidence base has been updated. This draft policy now requires that only housing developments within a 9km zone of influence around Thanet Coast and Sandwich Bay are required to provide contributions towards mitigating impacts. This site is outside of the identified zone of influence and so would not have a likely significant effect and, consequently, a contribution towards mitigation is not now required. The updated s106 legal agreement terms will reflect this policy update.

2. Conclusion

- 2.1 Planning Committee previously resolved to Approve the application, subject to a S106 agreement and conditions. However, due to delays in the submission and agreement of the S106 and due to new material considerations being identified by third parties, it was considered that there had been material changes in circumstance which necessitated the application being brought back before Planning Committee.
- 2.2 Notwithstanding the conclusions reached in the original committee report, it has been identified that the site contains reptiles. A mitigation strategy has been proposed which would appropriately and satisfactorily address the reptiles on site, subject to a legal agreement. It is therefore considered that, subject to amendments to the recommendation set out below, the application can be recommended for approval, with delegated authority passed back to the Head of Planning and Development to consider any further representations that may be received following Planning Committee.
- 2.3 Due to the passage of time, it is necessary to have regard to the emerging Local Plan which attracts moderate to substantial weight in the planning balance. Whilst this includes a number of policies relevant to the determination of this application, it is not considered that its policies alter the overall conclusions reached, beyond

the need for the s106 to be revised to reflect the current policy situation and in order to secure the updated financial contributions.

- 2.4 The proposed development of 32 dwellings and associated works would continue to provide a valuable contribution to the districts housing land supply and would deliver a policy complaint scheme. These benefits should carry significant weight. Notwithstanding the updated position regarding ecology and affordable housing (which are now acceptable, subject to a s106), the development would on balance be acceptable in other material respects, for the reasons set out in the previous committee report.

d) **Recommendation**

I PLANNING PERMISSION BE GRANTED subject to:

i) a S106 legal agreement being entered into to secure the translocation of reptiles to a receptor site and the maintenance of that site, the necessary planning contributions identified above, and provision, retention and maintenance in perpetuity of the amenity open space, equipped children's play area and accessible green space; and ii) subject to the following conditions to include:

- 1) Time limit
- 2) Approved plans
- 3) Construction Environmental Management Plan
- 4) Specialist UXO risk assessment
- 5) Construction Management Plan
- 6) Completion of the highway alterations in Stanhope Road shown on plan number 13859/H-01 Rev. P2 prior to commencing (TRO)
- 7) Contamination safeguarding
- 8) Measures to prevent discharge of water onto highway
- 9) Bound surface treatment for first 5m
- 10) Retention of car parking
- 11) Cycle parking
- 12) Completion of access
- 13) Completion of internal access roads and footways
- 14) Provision and retention of visibility splays
- 15) Surface water drainage with no infiltration other than approved
- 16) Details of foul water drainage infrastructure and verification
- 17) Details of external lighting
- 18) Details of amenity greenspace and LAP provided and maintained
- 19) Provision of refuse and recycling
- 20) Scheme for secured by design
- 21) Samples of materials, bricks, roof tiles, metal & timber cladding
- 22) Sectional eaves details
- 23) Hard and soft landscaping which shall include planting/details of fences
- 24) Windows to be set in reveals
- 25) Removal of permitted development rights for porches/roof extensions
- 26) Ecological mitigation and enhancements
- 27) Broadband provision
- 28) Noise impact mitigation measures

- II Powers to be delegated to the Head of Planning and Development to determine if any additional representations received raise new and/or substantive material planning considerations that require the case to be reported back to Planning Committee for further consideration and to settle any necessary planning

conditions, obligations and reasons in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Jenny Suttle