

a) **DOV/23/00370 – Outline application for erection of up to 40 dwellings (all matters reserved except access) - Land off The Street, East Langdon**

Reason for report – Number of contrary views (34 objections + Parish Council)

b) **Summary of Recommendation**

Outline Planning permission be granted

c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM11, DM15, DM16, DM17, DM27

National Planning Policy Framework (NPPF) (2023): Paragraphs 2, 7, 8, 11, 38, 47-50, 55-58, 60 – 66, 96-97, 104, 108-109, 112, 114-117, 128, 131, 135-137, 139-140, 157, 159, 162, 165, 173-175, 180, 182, 185-186, 188, 189, 191-194, 195, 200, 203, 205-213

National Planning Practice Guidance & Kent Design Guide

National Design Guide & National Model Design Code (2021)

Planning (Listed Buildings and Conservation Areas) Act 1990

SPG4 Kent Vehicle Parking Standards

Countryside and Rights of Way Act 2000

Kent Downs Area of Outstanding Natural Beauty (AONB) Management Plan 2021-2026

Draft Dover District Local Plan to 2040

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process the policies of the draft can be afforded some weight, but this depends on the nature of objections and consistency with the NPPF. Draft policies SP1, SP2, SP3, SP4, SP5, SP11, SP12, SP13, SP14, SP15, SAP46, CC1, CC2, CC3, CC4, CC5, CC6, CC8, PM1, PM2, PM3, PM4, PM5, PM6, H1, TI1, TI2, TI3, TI5, NE1, NE2, NE3, NE4, NE5, HE1, HE2 and HE3 are considered most relevant to this application.

d) **Relevant Planning History**

No relevant planning history for the site.

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

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

Langdon Parish Council – *The proposed development does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated. The proposed plan is a departure from the development plan, affects a Right of Way and is a Major development.*

- Highway impacts, including traffic/congestion on narrow lanes

- More information is needed regarding the access and visibility splays
- Limited permeability to existing dwellings (by foot and cycle)
- A design code is needed
- Surface and foul water disposal
- Access to and strain on existing facilities and services with no additional facilities and services proposed
- The effect of lighting on the night sky
- How will open spaces, paths and woodland be managed?
- Increase of the small village by 60%. This level of growth is not in-keeping with the function of a village
- Object to the Regulation 19 draft plan seeking to recategorize East Langdon as a larger village
- The site is on productive agricultural land
- Loss of countryside
- Harm to the character and appearance of the area (in particular from PROW's ER44 and ER47)
- Disturbance of local wildlife and harm to ecology
- The application has pre-empted the emerging Local Plan and conflict with Policies CP1, DM1, DM12, DM15 and DM16

Natural England (NE) – The development is for a site within or close to a nationally designated landscape (Kent Downs AONB). NE advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal (including the policy and statutory framework, the NPPF which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs). Also advise that the Council consult the relevant AONB Partnership. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development. The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" and reference is made to NE guidance on this and further general advice on protected species and other natural environment issues is provided at Annex A (available to view in the online planning file).

As competent authority under the provisions of the Habitats Regulations, it is ultimately for the council) to decide whether or not the strategic solution is applicable. Provided the council is satisfied the proposed development can be screened out from further stages of assessment because significant effects are unlikely to occur, and therefore the strategic solution is not required, Natural England are happy to concur with this conclusion.

Environment Agency – consider that planning permission could be granted if the suggested conditions are included. Without these conditions, the proposed development poses an unacceptable risk to the environment and we would object to the application. The conditions relate to: land contamination, a verification report demonstrating the completion of any remediation required, dealing with any contamination which may be found but was not previously identified, restricting the use of piling or any other penetrative foundation design methods without the consent of the local planning authority, and restricting the infiltration of surface water drainage into the ground without the written consent of the local planning authority. A number of informatives and additional information is also provided and would be included on the decision notice if permission is granted.

Southern Water – requires a formal application for a connection to the public foul

sewer to be made by the applicant or developer. The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS) and under certain circumstances these will be adopted by Southern Water should this be requested by the developer. Guidance on the use, design and management of SuDS is provided, to be included as an informative if permission is granted. Technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local. Request that an informative is attached to the consent requiring details of the proposed means of foul sewerage and surface water disposal to be submitted and approved in writing prior to the commencement of construction of the development. It is possible that a sewer now deemed to be public could be crossing the development site and should any be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

KCC Flood and Water Management - reviewed the Flood Risk Assessment and understand that surface water from the impermeable areas of the site is to be managed through using infiltration. They have no objections to the approach presented, however initially raised some concerns about the sizing of the infiltration basin and supporting hydraulic calculations. Upon receipt of further information, advised they have no objection to the proposals at this stage. As part of the detailed design stage additional ground investigation will be required to support the use of infiltration. It is recommended that soakage tests be compliant with BRE 365, notably the requirement to fill the test pit several times. Detailed design should utilise a modified infiltrate rate and demonstrate that any soakaway will have an appropriate half drain time. Further to this, no hydraulic calculations have been provided for the 2-year rainfall event scenario and we expect for this to be provided. The report also highlights the area is located in groundwater Source Protection Zones 2 and 3 and consultation with the Environment Agency is recommended to identify any constraints or specific requirements in this area that may impact the proposed SuDs methods. Advised that should permission be granted, conditions to secure the following should be attached: requiring the reserved matters to demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout; requiring the submission of a detailed sustainable surface water drainage scheme prior to the commencement of development; requiring the submission of a verification report pertaining to the surface water drainage system; and controlling the location of infiltration within the site.

KCC Economic Development – request the following financial contributions:

	Per dwelling	Total development
Secondary Education	£4,540.00	£181,600.00
Community Learning	£16.42	£656.80
Youth Service	£65.50	£2,620.00
Library Service	£55.45	£2,218.00
Social Care	£146.88	£5,875.20
Waste	£54.47	£2,178.80
All homes built as Wheelchair Accessible & Adaptable dwellings in accordance with Building Regs Part M 4(2)		

Planning Policy – Request the following contributions towards Langdon Playing Fields Play Area, East Langdon Cricket ground enhancements, Tides Leisure Centre and Whitfield and Duke of York Roundabouts respectively.

Open Space and Play	£17,333.14
Sport – Playing Pitches	£12,350
Sport – Swimming	£21,497

Strategic Highways £80,000

Also provided a copy of the schedule of additional modifications to the Regulation 19 Submission Plan (March 2023) and Regulation 22 Part 2 Appendix F Summary of Representations (March 2023). At the date of the advice (May 2023) a date for the local plan examination had not been set and advised that the weight attributed to draft Policy SAP46 would be tempered by the existence of unresolved objections, noting the objection of the Parish Council, advising the draft Policy would carry some weight, limited by the early stage in the examination process with more weight being attributed as it progresses through examination. The Council has sought to resolve some of the objections through suggested additional modifications to the plan, clarifying some wording in the policy. They raised concerns that no footpath connection to the village was proposed and why Langdon Court Bungalow had been excluded from the site as it was part of the local plan allocations and allowed connection to the footpath ending at Langdon Court Bungalow and was important to encourage pedestrian accessibility to services and facilities, suggesting the red line should be altered. It appeared sensible to provide a footpath connection to the playing field through the site so pedestrians are separated from vehicles. There should also be footpath connectivity to the village hall (at least the provision of suitable kerbs to allow wheelchairs and prams etc – see criteria 1 of policy). Noted matters were reserved and commented the emerging policy specifies existing hedgerows and trees at site boundaries to be maintained and enhanced where necessary to provide screening – tree retention plan does not give confidence and layout of gardens at reserved matters stage should accommodate this and explain which trees and hedgerow are within red line and how that relates to gardens. Access appears to disturb woodland to south of site but it has not been explained why this is necessary. The team have no particular objection to the village green but the landscape buffer at the north and west of the site should ideally be widened so buildings don't extend beyond the existing built form of Long Hill Lane (criteria a and b of SAP46 refer to buffer and settlement character).

Strategic Housing Manager - The proposed 30% affordable housing is a policy compliant level. There is a need and demand for affordable housing across the district. Encourage the design team / developer to discuss the property types and tenures which would best meet identified local need in this rural area and to make early contact with Registered Providers to ensure that one is identified to acquire the affordable properties.

KCC Public Rights of Way and Access Service – have no comments to make.

KCC County Archaeology - the application is accompanied by a Heritage Assessment, which includes desk-based assessment of the site's archaeological interest. The site lies in a landscape that is generally rich in archaeological remains and the desk-based assessment acknowledged that numerous crop- and soil- marks have been identified on aerial photographs in the fields surrounding the proposed development. These crop- and soil- marks provide evidence for buried archaeological features and landscape and include several ring-ditches (likely the plough flattened remains of later Prehistoric funerary monuments) as well as various track-ways, enclosures and other features that have been broadly assigned a later Prehistoric or Romano-British date. It is possible that the proposed development may impact buried remains of archaeological interest and it is recommended that provision be made in any forthcoming planning consent for a programme of archaeological works.

KCC Highways and Transportation – Requested amendments and further information and following receipt of additional details to address previous concerns in relation to the holding objection raised, advised a virtual footway west of the access was no

longer sought (previous comments had raised concerns regarding this whereby the holding objection was raised).

The proposal seeks to provide formalised shuttle working to the west of the access where the road narrows outside Langdon Court Bungalow. The works will require signage and give way markings (it is suggested these are secured by condition and a separate Section 278 agreement with KCC). The existing 20mph speed limit sign is proposed to be relocated to include the site access. Red road markings alerting drivers to the change in speed limit are proposed (the speed limit change should be secured by way of a suitable condition of best endeavours and will be subject to a separate Traffic Regulation Order (TRO) and public consultation. The proposal seeks to provide a pedestrian link at the northern parameter of the site, which links to the existing Public Right of Way (PROW) ER44 and provides a tangible link to the primary school at West Side and Langdon Primary School for residents (to be secured through a condition; the details of which can be outlined at detailed design stage). The proposal seeks to provide a pedestrian footway through the site to the north to the recreation ground which is acceptable in line with policy requirements and should be secured by condition. In line with the above, confirm that they remove the previous holding objection and now raise no objection on behalf of the local highway authority subject to the imposition of conditions (discussed further in this report).

National Highways – No objection. The site is located approx. 1 ½ miles by road from the Duke of York Roundabout on the A2 at Dover, and 3 miles from Whitfield Roundabout, if permitted, the proposals would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the Strategic Road Network in the vicinity of the site.

NHS – requests a financial contribution of £34,560 towards refurbishment, reconfiguration and/or extension of Buckland Surgery and/or High Street Surgery and/or St James Surgery and/or Sandwich Medical Practice and/or towards new general practices in the area. This proposal will generate approximately 96 new patient registrations when using an average occupancy of 2.4 people per dwelling. The development falls within the current practice boundaries of Buckland Surgery, High Street Surgery, St James Surgery and Sandwich Medical Practice and there is currently limited capacity within existing general practice premises to accommodate growth in this area. The need from this development, along with other new developments, will therefore need to be met through the creation of additional capacity in general practice premises.

Environmental Protection (EP) – have no significant concerns; however recognise the impacts that demolition and construction will have on neighbouring dwellings and request a condition that requires a Construction Management Plan (CMP) with specific reference to dust and noise control. Further advised that to support this application an air quality screening assessment had been submitted, which examines the impact of the proposed development both for the construction and operational phase, concluding that for the operational phase the impact of the development will be insignificant on current and future residents and need not be considered further, which is agreed. For the construction phase the report identifies existing residential receptors close to the development and mitigation measures to control fugitive dust levels resulting from construction activities. The Langdon primary school sensitive receptor located adjacent to the proposed development site should be included and considered when developing a dust management plan. The report identifies generic measures to control dust based on guidance from IAQM and it is strongly recommended that should permission be granted for this development a Construction Management Plan should be conditioned and agreed with the Local Authority prior to

commencement of works, including measures identified in the above section. For the construction phase the CMP should include impact of construction noise in accordance with the London Good Practice Guide: Noise & Vibration Control for Demolition & Construction.

Tree and Horticulture Officer - have no objections to the proposed outline development and the details set out in the Arboricultural Assessment document dated December 2022 provided that details of the root protection areas and tree protection barriers are provided as part of a site-specific Arboricultural Method Statement in any Reserved Matters application and in accordance with the guidance contained within BS5837:2012 Trees in relation to design, demolition and construction. Further advised that having reviewed the site and their comments, whilst they had no further comments to make in respect of amended details, were concerned about the loss of the very large mature road side Ash tree (T5) located on the south east side of the site which is a landmark feature and they believe that its loss without sound justification would be detrimental to the amenities of the local landscape.

Senior Natural Environment Officer – has reviewed the ecological reports submitted by the applicant (requesting the results of the wintering bird survey to confirm whether the site is used by any important assemblages or features of the Thanet Coast and Sandwich Bay SPA / Ramsar site) and advised that enough ecological survey work has been carried out with which to inform conclusions regarding the potential for ecological impacts to arise because of the proposed development, and to inform the need for and scope of any necessary ecological mitigation measures. There are some minor differences between the Ecological Impact Assessment and the Biodiversity Net Gain Plan (e.g. removal/partial loss of hedgerow H4), but these are not considered to be significant in terms of the conclusions and recommendations and can be addressed at reserved matters / discharge of conditions. Suggest the imposition of conditions for a Biodiversity Method Statement, Ecological Design Strategy, Habitat Management and Monitoring Plan, Lighting. The Winter Bird Survey Report has been submitted by the applicant and it is concluded following the surveys that the proposed development may have minor adverse impacts to wintering farmland bird species (yellowhammer), due to the loss of arable field. The proposed green infrastructure provision and retention of boundary features will provide benefits for other bird species. No birds that are features of the SPA were recorded using the site and previous comments remain valid.

Kent Police Designing Out Crime Officer - have reviewed this application with regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF). Request a condition for this site to follow SBD Homes 2019 guidance to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998. Provide advice on the design of the development in relation to boundary treatment height/design, locations for vehicle parking and opportunities for natural surveillance, external lighting, design and specification of external doorsets and windows and design of cycle storage, as well as site security for the construction phase.

Third Party Representations: 34 letters of objection have been received and are summarised below:

- Infrastructure – will double size of hamlet with no real provision, concerns regarding adequacy of water supply, drainage and public sewers, broadband signal and low speeds, capacity of school , impact on dentists, doctors surgery

and hospital capacity, no evening bus service, parking issues at Martin Mill train station, concerns regarding future applications and facilities available

- Highways – single track lanes with poor passing places, additional 80-100 cars in hamlet, roads would need widening, potholes, speeding, access for construction vehicles/HGVs, parking, A258 cannot cope with extra traffic, cumulative impact from other local housing development, farming vehicles, buses, highways safety including children crossing between village hall and school and hall users, lanes used by dog walkers, horse riders, cyclists. Impact on road network (part of Skylark Trail). Transport data is inadequate and provided by company which is not local, concerns regarding TRICS data, traffic survey carried out by Parish Council demonstrated a lot more traffic. Transport statement does not mention A258 Dover to Deal Road, crash map website shows 15 recent accidents between Station Road junction and Duke of York roundabout.
- Loss of agricultural land – loss of greenfield site, high quality agricultural land BMV, should be used for growing crops/grain, need to be more self-sufficient
- Wildlife/ecology – loss of important habitats, detrimental to wildlife including protected species, unethical and irresponsible, impact on flora and fauna, mature wooded wildlife area behind property adjacent to site home to many species, sections of preliminary ecological survey have been redacted
- Visual amenity – visually damaging to landscape of rural area and loss of open space. Will block and change views from local footpaths/public rights of way ER44 and ER47 and historic village (conservation area), ER44 access needs to be protected as only off-road walking route from Martin. Concerns regarding justification and conclusions of effects in the landscape and visual appraisal, loss of countryside is major and irreversible. Not sympathetic to surrounding area. Light pollution. Concerns regarding management of proposed open spaces
- Policy/Draft Plan – draft plan is approaching examination stage, whilst a material consideration, the degree of weighting is limited. Proposal is against current neighbourhood plan and local plan, contrary to DM1, CP1, DM12, DM15, DM16 and would not enhance East Langdon as required by emerging plan. Draft plan will be examined by Inspectors and submitting site ahead of this undermines purpose of participating in public consultation process, does not allow issues raised during consultation to be considered. Hope the application will be considered against current planning policy in force rather than giving preferential weight to incoming policies prior to examination and adoption. Suggest full application should be resubmitted when local plan adopted.
- Scale of development – too large for the village, 40 houses would result in 60% increase in number of houses in village, suggest up to a dozen homes could be created spread around the area. Concern regarding gradual merging of villages. Current population of village is small and these homes would substantially alter the demographic of the community, suggestion for future development to include bungalows suitable for down-sizing. Parish survey for neighbourhood plan favours a small number of affordable homes. Housing could be accommodated within other new developments in Dover/Whitfield. Design could lead to separate community cluster rather than integrating with existing village
- Request clarity on who the developer is and providing comments on reputation of a developer. Concerns that outline concept design could be altered at later planning stage.
- Impact on residents' quality of life, disturbance, noise pollution, school would be overlooked and closed in

f) 1. The Site and the Proposal

- 1.1 The site relates to a plot of agricultural land (identified in Figure 1) on the north west side of The Street, in East Langdon. The land rises to the northwest and there are public rights of way adjacent to the northwest boundary (ER44/1) and part of the southwest boundary (ER44/2). To the northeast of the site is Langdon Playing Fields and to the south of the site are a number of dwellings and Langdon Primary School, which can be accessed via the public footpaths.
- 1.2 This is an outline application for the erection of up to 40 dwellings, with all matters reserved except for access. A design and access statement has been submitted which contains an indicative site layout (which can be found at Figures 2 and 3), demonstrating how up to 40 dwellings could be accommodated within the site. The document also includes indicative details on the scale and design of dwellings and layout of the site, however as these matters are reserved, this does not necessarily represent the finalised scheme, as such details would be considered as part of a reserved matters application. A transport statement has also been provided, identifying the proposed location of the site access, from The Street. Other reports addressing heritage, flood risk, community involvement, socio-economic benefits, planning statement, air quality screening assessment, noise screening assessment, foul sewage and utilities, landscape and visual assessment, preliminary ecological assessment, biodiversity net gain, arboricultural assessment and preliminary risk assessment have also been submitted in support of the application and will be addressed throughout this report.



Figure 1. Site Location Plan

2. Main Issues

- 2.1 The main issues for consideration are:
- The principle of the development
 - Impact on the countryside and landscape

- Impact on Heritage Assets
- The impact on residential amenity
- Other material considerations

Assessment

Principle of Development

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan, unless material considerations indicate otherwise.
- 2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located adjacent to, but outside of the settlement confines identified in Policy DM1 and under Policy CP1, the village is a 'tertiary focus for development in the area, suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community'. The development is not justified by another development plan policy, does not functionally require a rural location and is not ancillary to existing development or uses. As such, the development is contrary to Policy CP1 and DM1.
- 2.4 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. East Langdon contains a primary school, play park and village hall, however, has no other facilities. It does benefit from a bus service, providing services on Mondays to Saturdays to neighbouring settlements (including Guston, Martin, Martin Mill and St Margaret's at Cliffe) and larger settlements including Deal (via Walmer) and Dover (including school services). East Langdon can be reached via public footpaths from the site. Residents of the development would be able to use public transport, or cycle along the street (identified as a cycle route under saved Policy TR9) to reach the nearby settlements of Martin (which contains a public house) and Martin Mill (which has a train station providing services towards Deal and Dover and beyond), such that they would not be dependent on the use of a car to travel to reach all of the necessary day to day facilities and services. Notwithstanding this, the development is not justified by other development plan policies and as such, is contrary to Policy DM11.
- 2.5 Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would result in a limited adverse impact on the countryside (as detailed further in the report). The development would not meet any of the exceptions listed in Policy DM15. Whilst it is considered that the development would have only a limited impact on the character and appearance of the countryside (discussed in detail later in the report), this alone would be sufficient for a proposal to be considered contrary to DM15.
- 2.6 Policy DM16 states that development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level. It is considered (further in this report) that the

development would have only a limited impact on the character of the countryside and no significant adverse impact on the landscape. Consequently, the development would not conflict with DM16.

- 2.7 For the above reasons, the development is contrary to policies DM1, DM11 and DM15 of the Core Strategy, but would accord with DM16. It is considered that these policies are also important policies for determining the application.
- 2.8 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 7 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (the Housing Delivery Test).
- 2.9 Having regard for the most recent Housing Delivery Test, the Council are currently able to demonstrate a five-year supply (achieving 5.38 years supply). The council have delivered 88% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.10 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver a greater number of dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry only limited weight.
- 2.11 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable transport. Given the particular characteristics of this application and this site, it is considered that the use of the site as proposed would weigh against the sustainable travel objectives of the NPPF. Whilst the blanket restriction of DM11 is in tension with the NPPF, given that the policy otherwise reflects the intension of the NPPF to promote a sustainable pattern of development, on balance, it is not considered that DM11 is out-of-date. However, the weight to be afforded to the policy is reduced.
- 2.12 Policy DM15 resists the loss of 'countryside' (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside (another blanket approach) is more stringent than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development (Paragraph 174). There is some tension between this policy and the NPPF. In this instance, the sites appearance within the countryside does afford a contribution to the character of the countryside. Consequently, it is concluded

that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.

- 2.13 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations in the DPD and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level. As with Policy DM15, this policy is considered to be in some tension with the objectives of the NPPF (particularly Paragraph 174), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced. In this instance the sites appearance within wider landscape character does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date, however should attract reduced weight for the reasons set out in the assessment section below.
- 2.14 The Draft Local Plan was published for Regulation 19 stage consultation on 21 October 2022 and was submitted for examination on 31st March 2023. Examination in public took place in November and December 2023 and the Inspectors response is currently awaited. The Plan is at an advanced stage and is considered to be an important material consideration in the determination of applications, with policies attracting weight in the planning balance. Draft Policy SP1 of the Submission Draft Dover District Local Plan (2023) seeks to ensure development mitigates climate change by reducing the need to travel and Draft Policy SP2 seeks to ensure new development is well served by facilities and services and create opportunities for active travel. Draft Policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes.
- 2.15 Policy SAP46 identifies the application site as being suitable for residential development of approximately 40 dwellings and the draft policy sets out that proposals should include the following criteria:
- a) Development should be focused in the southern part of the site fronting onto The Street. The northern and north-western part of the site should remain undeveloped and be retained as a landscape buffer ;
 - b) Development should be low density and sensitively designed to respect the character of the area and to allow transition to the rural landscape;
 - c) A generous landscape buffer and structural planting, determined by a Landscape Visual Impact Assessment is required to mitigate the impact of development on the wider countryside;
 - d) The existing trees/hedgerows in the site and around the boundary of the site are to be maintained and enhanced where necessary to provide screening to mitigate the impact of development on the countryside;
 - e) Consideration will be to be made regarding the quality and condition of trees and hedgerows within the site. Detailed proposals should aim to protect those of importance and incorporate them in the overall design of the development and to provide opportunities for biodiversity habitat creation and enhancement;

- f) Primary vehicular, pedestrian and cycle access to the site shall be provided from East Langdon Road, with the existing road to be widened at access point;
- g) Include a review of 20mph speed limit extent including appropriate gateway feature on The Street;
- h) Investigate, and where possible deliver, the need for improvements to the local rural road network;
- i) Provide pedestrian and cycle connections to Landon Playing Field and Langdon Primary School, in addition to connections and enhancements to the PROW ER44/45/47;
- j) In accordance with Policy SP13, a wintering bird survey must be undertaken in advance of a planning application on the site. If the bird survey identifies that the development will exceed the threshold of significance, mitigation will be required. A suitable scheme of mitigation will need to be submitted with the planning application for the site;
- k) A site-specific Flood Risk Assessment is required to address the issue of surface water flooding and consider the impacts of climate change over the lifetime of the development;
- l) For major developments, or where there are historic sewer flooding incidents, developers should consult the relevant water authority at an early stage to ensure that there will be sufficient capacity in the wastewater system to accommodate the development and any upgrades are carried out where necessary;
- m) An Archaeological Assessment for the site must be carried out in accordance with Policy HE3 Archaeology, the results of which should inform the layout and design of the development which is necessary to avoid harm to any archaeological assets identified through the assessment;
- n) Occupation of development will be phased to align with the delivery of sewerage infrastructure, in liaison with the service provider; and
- o) Open space requirements in accordance with Policy PM3, shall be provided. Due to the location in adjacent to existing open space and equipped play infrastructure in Langdon Playing Field, this scheme should seek to provide extensions and/or enhancements to those facilities.

2.16 As this is an outline application with all matters apart from access reserved for future consideration, the layout, scale, appearance and landscaping would be considered further at the detailed design stage as part of a reserved matters application if outline planning permission is granted. Notwithstanding this, a development framework plan has been submitted (found at Fig.2 below) which, accompanied by the design and access statement (Figure 3 shows an indicative site layout), is considered to demonstrate how up to 40 dwellings could be accommodated at the site, whilst providing amenity space, footpaths and access to the public rights of way and landscaping. The design and access statement details how the dwellings could be arranged and designed to comply with parts a and b of the draft policy (SAP46), focusing development within the southern part of the site, with a reducing density

moving north and leaving the northern part of the site undeveloped (with footpaths connecting the site to public rights of way) and with areas of landscaping. The criteria of the policy will be discussed in the relevant sections of this report, however it is considered that the indicative plans provided demonstrate that 40 dwellings could be accommodated at the site in a way that would accord with the criteria of the policy. It is noted that modifications to the wording of the policy were proposed in the schedule of additional modifications submission document and were discussed at the local plan examination, however these have not been subject to consultation. The draft policy set out above has been subject to Regulation 19 stage consultation and whilst there are a number of unresolved objections to the draft policy (8 representations, with issues mainly relating to roads, transport, movement, access, infrastructure, housing needs, trees, wildlife and habitats) the draft policy is considered to attract moderate weight in the planning balance.

- 2.17 Draft Local Plan Policy SP4 sets out the appropriate locations for new windfall residential development which seeks to deliver a sustainable pattern of development, including within the rural area where opportunities for growth at villages (in line with Paragraph 79 of the NPPF) are confirmed. The policy is underpinned by an up-to-date evidence base of services and amenities at existing settlements and takes account of the housing need across the district. The site is adjacent to the draft settlement confines of the first-tier settlement of East Langdon. Notwithstanding this, as the site is proposed to be allocated under Policy SAP46, it is not considered that the development is windfall development that would require assessment under Policy SP4.
- 2.18 It is considered that policies DM1, DM11, DM15 and DM16 are to a greater and lesser extent in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues they seek to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives, in this context. Subject to the detailed design of the development, which would be considered further at reserved matters stage, the proposals are considered to accord with draft Policy SAP46. Notwithstanding this, Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date, and as such, the tilted balance approach of Paragraph 11 of the NPPF is engaged.
- 2.19 An assessment as to whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits (and whether this represents a material consideration which indicates that permission should be granted) will be made at the end of this report.

Impact on the Countryside and Landscape

- 2.20 The site is located outside of, but adjacent to, the settlement confines of Policy DM1 (albeit it is adjacent to the draft settlement confines identified in Policy SP4 and is a draft allocated site under Policy SAP46) and as discussed, is considered to be within the countryside and is therefore subject to Policy DM15. It is noted that the Kent Downs Area of Outstanding Natural Beauty (AONB – now called National Landscapes) is located approximately 1.14km to the southeast of the site, on the opposite side of Deal Road/A258 and regard has been had to the objectives of the Kent Downs AONB Management Plan and NPPF Paragraphs 180 and 182. As this is an outline application with all matters reserved except for access, full details of the design (appearance), layout and scale of the dwellings and landscaping would be submitted at reserved matters stage. Notwithstanding this, indicative plans, which include the development framework plan below (Figure 2) and indicative site layout

(Figure 3), indicating the landscape and green infrastructure proposals have been submitted to demonstrate how the 40 dwellings could be accommodated within the site, with a vehicular access connecting to The Street to the south. A Landscape and Visual Appraisal (LVA) has been submitted to assess the likely landscape and visual effects of the proposed development.



Figure 2. Indicative development framework plan



Figure 3. Indicative site layout (from Design and Access Statement)

- 2.21 The development would seek to retain the existing trees/hedgerows in the site and around the boundary of the site, as well as including green infrastructure throughout and surface water attenuation close to the southern edge of the site. The existing public footpaths are proposed to be retained in the layout, with recreational routes provided through the development, including a pathway through to the playground to the east. The LVA sets out that the site lies within Natural England's National Character Area (NCA) 119 "North Downs", which forms a chain of chalk hills extending from Surrey and ending at the White Cliffs of Dover. The site is also within open arable chalk farmland with woodland and the landscape character area of Ripple in the Landscape Character Assessment for Dover District. It does not fall within any landscape designations (such as National Parks, AONB or special landscape areas), however East Langdon Conservation Area, which contains a number of Listed Buildings, is located to the west of the site, discussed further in this report.
- 2.22 The LVA uses viewpoints and visual appraisal to establish a baseline for the site and assess the likely visual effects of the proposed development on receptors. The report considers that the development would have a negligible effect on the North Downs National Character Area during construction, completion and at year 15. The key characteristics of the Local Character Area 'Ripple' would also be unaffected. In respect of the Kent Downs AONB/National Landscape, the report notes the distance from the AONB and the scale of the site and proposed development in relation to the wider setting of the AONB is relatively small. The indicative plans submitted propose to focus development on the lower part of the site (the southeastern half), with the more elevated part of the site being kept free of development for green infrastructure enhancements. It sets out that identified views from the northern edge of the AONB to the site are limited and the primary focus of views within the AONB is away from the site, towards the White Cliffs. The report considers that the nature, scale and character of the proposals is in-keeping with the adjacent residential areas which also

lie within the AONB setting. Much of the existing vegetation at the site, particularly along the edges and area of woodland in the southwest corner are envisaged to be retained with new green infrastructure being delivered (with landscaping to be dealt with at reserved matters stage), which over time is expected to create a mature landscaped setting to the development and would help to assimilate it into its surroundings. In respect of the site and immediate context, the report judges the site to be of a medium landscape value. Whilst there would be disturbance to the existing grassland and an inevitable loss of landscape features to provide access and new dwellings at the site, the report sets out that where possible, landscape features of value, including boundary features, would be retained and enhanced with new planting, maintaining a degree of enclosure and a mature landscaped setting, with some alterations to the sloping landform required to provide correct levels and gradients for access, properties and sustainable urban drainage systems (SUDS). The report considers that once the planting (trees, shrubs, hedgerows) and SUDS features have established, in the long term they will provide some landscape benefits for the site, mitigating for the loss of existing landscape features and the effects at 15 years post-completion would be reduced to moderate adverse.

- 2.23 The report considers the effects of the development on receptors (residents, public rights of way, road users and others) during construction and operation (following completion). At completion, the visual effects on residents of approximately three properties within East Langdon/ south-west of the site on Long Hill Lane, will remain at major/moderate adverse, with the new dwellings being visible, although partially set back and with an intervening strip of open space and filtered in places by garden and retained boundary vegetation. Following completion, by year 15 it is envisaged that new planting would have matured, softening the appearance of the development and the effects on residents are expected to reduce, ranging from minor adverse to minor adverse/negligible. In respect of the users of the public rights of way (footpaths ER44/1 and ER47), the effects are likely to reduce upon completion to moderate adverse, with the effects experienced along relatively short section of the wider footpaths. By year 15, as a result of the indicated infrastructure planting the effects on users of the footpaths are expected to reduce to moderate/minor adverse. In respect of users of The Street along the southern edge of the site, as a result of the indicated green infrastructure planting, again by year 15, the effect is expected to lessen to moderate/minor adverse, with effects on other road users expected to reduce to negligible. For users of East Langdon Parish Hall, moderate effects are likely to be experienced at completion, however as a result of planting, by year 15, this is expected to reduce to moderate/minor adverse, with the same effect expected for train users. In respect of recreational users of Langdon Playing Fields, they are expected to experience moderate/minor adverse effects upon completion of the development, however by year 15, effects are likely to be less adverse, reducing to minor adverse as planting would be approaching maturity, softening and integrating the build development within the view. The report considers that the overall landscape effects of the development upon the site and its immediate context will be major/moderate adverse during construction and upon completion, reducing to moderate adverse at year 15.
- 2.24 In the interests of visual amenity, it is considered appropriate to recommend a condition is imposed for the reserved matters details to be broadly in accordance with the development framework plan submitted. It is also considered appropriate to suggest a condition is imposed requiring samples of the external materials to be used in the construction of the dwellings to be submitted for approval in the interests of visual amenity. Subject to further details of the design (to be dealt with at reserved matters stage), based on the framework plan and design and access statement submitted, it is considered that a reserved matters scheme could be submitted which

would be visually attractive, sympathetic to the local character of the area and would add to the overall quality of the area, as required by Paragraph 135 of the NPPF and draft Policy PM1, and could preserve the intrinsic character and beauty of the countryside and wider landscape area (including AONB), in accordance with the objectives of Policies DM15 and DM16, draft Policy NE2, NPPF Paragraphs 180 and 182, the Kent Downs AONB Management Plan and having regard to the duty of the Countryside and Rights of Way Act 2000.

Impact on Heritage Assets

- 2.25 The site is located approximately 160m to the northeast of the East Langdon conservation area. The conservation area contains several listed buildings; the closest of which to the application site being the Grade II* Listed Barn about 20 metres north east of Jossenblock (on the southern side of The Street). Chapter 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out requirements relating to the assessment of the impact on listed buildings and conservation areas. In respect of Listed Buildings, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In respect of conservation areas, special attention must be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Paragraph 205 of the NPPF sets out that great weight should be given to the conservation of heritage assets, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 states that 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. Paragraph 208 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Paragraph 209 of the NPPF sets out that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In addition, Submission draft Local Plan Policy HE1 seeks to conserve or enhance heritage assets and sets out criteria by which development that would cause total loss or substantial harm may be accepted. Furthermore, draft Policy HE2 supports development in conservation areas that preserves or enhances the special architectural or historic character of the area and subject to several criteria.
- 2.26 In accordance with NPPF Paragraph 200, a heritage statement has been submitted, considering the impacts of the proposals on the significance of listed buildings and the conservation area. Subject to the sensitive design of the site, suitable scale, landscaping and appropriate materials, in line with the framework masterplan, it is considered the proposals would result in no harm (either substantial or less than substantial) to the significance of the setting of the listed buildings and would preserve the character and appearance of the conservation area in accordance with the NPPF and the Planning (Listed Buildings and Conservation Areas) Act 1990, subject to an acceptable scale, landscaping, siting and sensitive design being secured at the reserved matters stage.

Impact on Residential Amenity

- 2.27 The site is positioned to the northeast of Langdon Court Bungalow and the properties of West Side and Long Hill Lane. Whilst details of the siting, scale and design of the dwellings would be dealt with at reserved matters stage, the design and access statement provides an indicative site layout suggesting how the dwellings could be arranged, as well as areas of landscaping at the site and footpaths. At reserved matters stage, the design and scale of the dwellings (as well as any intervening boundary treatments) would be considered to ensure the development would result in no unacceptable harm to privacy or an overbearing impact and would accord with the objectives of Paragraph 135 of the NPPF and objectives of draft Policy PM1. Environmental Protection Officers have reviewed the air quality screening assessment submitted, which examines the impact of the proposed development both for the construction and operational phase. They agree with the conclusions of the report that for the operational phase, the impact of the development on current and future residents will be insignificant, with mitigation measures to control dust levels resulting from construction activities. They recommend a condition is imposed for a construction management plan, which should also include impact of construction noise, which is considered reasonable. Whilst Environmental Protection have separate powers under their own legislation, as this only covers statutory nuisance, it is considered that a condition is still necessary to make the development acceptable in planning terms. It is noted a condition is requested by the Designing Out Crime Officer, however as the detailed design would be considered further at reserved matters, it is not considered necessary to suggest the condition at this stage.
- 2.28 In respect of the amenity of the occupants, careful consideration would need to be given at reserved matters stage to ensure future occupants of the development would enjoy a high standard of amenity, as set out in Paragraph 135(f) of the NPPF and sought by draft Policy PM2. Other matters, such as provision of secured bicycle storage and refuse/recycling storage would be considered at reserved matters stage, however it is likely there would be sufficient space within the site to accommodate this.

Other Material Considerations

Impact on Travel and Parking

- 2.29 Policy DM11 seeks to restrict travel demand outside of the rural settlement confines. Draft Policy TI1 seeks to secure sustainable transport and maximise sustainable transport modes and a transport statement has been submitted (in accordance with Draft Policy TI2). Policy DM13 relates to parking provision and sets out that provision for residential development should be informed by the applicable guidance within the table of residential parking. Draft Policy TI3 requires proposals to meet the requirements of Kent Design Guide Review: Interim Guidance Note 3. Draft Policy SAP46 requires the primary vehicular, pedestrian and cycle access to be provided from East Langdon Road (f), a review of the 20mph speed limit extent including appropriate gateway feature on The Street (g), to investigate and where possible deliver improvements to the local rural road network (h) and provide pedestrian and cycle connections to Langdon Playing Field and Langdon Primary School in addition to connections and enhancements to the PROW ER44/45/47 (i). In respect of access being derived from East Langdon Road (point f of the draft policy), a modification to the policy wording is proposed to include reference to The Street which should be noted by Members.
- 2.30 During the course of the application, following the consultation responses of KCC Highways and Transportation, amended access details have been submitted and duly advertised. The development proposes an access point onto The Street (in line

with the proposed revised policy wording for part (f) of draft Policy SAP46) along with highway works which include a priority single file arrangement, pedestrian, give way and priority road signage and relocating the 20mph/40mph gateway signage (addressing parts (g) and (h) of the draft Policy). Tracking details have been provided to demonstrate the access is suitable for 4-wheel drive cars and large refuse vehicles and the application is supported by a transport statement. The proposal previously included a virtual footway west of the access on The Street, however this was removed following the comments of KCC and the proposals seek instead to provide a pedestrian link at the northern parameter of the site, linking to the existing public right of way ER44. This connects to the primary school at Westside and Langdon Primary School. A pedestrian footway through the site would be provided, leading to the recreation ground (in accordance with the objectives of part (i) of draft Policy SAP46). The transport statement uses TRICS data to assess the impact of the proposals, with the report setting out that the development is forecast to generate approximately 18 two-way trips in both the AM and PM peak hours, which is considered to be within the normal variation of daily traffic flows and will not result in a material change to traffic conditions. Discussed further at paragraph 2.43, the development would contribute towards the improvement of Whitfield roundabout which is required to mitigate in-combination effects of local plan growth.



Figure 4. Proposed site access arrangement

- 2.31 KCC Highways and Transportation have reviewed this information, raising no objection provided that the following matters are secured by condition or planning obligation:

- Submission and approval of shuttle working at The Street, including suitable signage and give way markings and gateway feature.
- Evidence of submission of a Traffic Regulation Order, prior to first occupation.
- Submission and approval of details of a footway link with PROW ER44.
- Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1 metre above carriageway level within the splays, prior to the use of the site commencing.
- The proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed in accordance with details to be submitted to and approved by the Local Planning Authority.
- Submission of a Construction Management Plan.

These conditions are considered reasonable, noting that further details of parking provision would be submitted at reserved matters stage. Subject to this, the development is not considered to result in an unacceptable impact on highway safety or severe residual cumulative impacts on the road network, having had regard to NPPF Paragraph 115, and would accord with the broad objectives of parts (f – as proposed to be amended), (g), (h) and (i) of draft Policy SAP46.

- 2.32 National Highways have been consulted and raise no objection to the proposals. Kent Fire and Rescue Service have also been consulted, advising that it is their opinion that the emergency access requirements, which are also a requirement under Building Regulations, appear to have been met.

Impact on Flood Risk/ Drainage, Trees and Ecology

- 2.33 The site is located in flood zone 1 which has the lowest risk from flooding and is within groundwater source protection zones 2 and 3 (subject to Policy DM17). A flood risk assessment has been submitted in support of the application, assessing the likelihood of flooding from a range of sources. The report identifies that the site passes the sequential test, being in an area with the lowest probability of flooding and the residential use is considered to be appropriate, such that there is no requirement for the exception test. KCC Flood and Water Management have been consulted, raising no objection to the outline proposals and recommending conditions are imposed requiring the reserved matters to demonstrate requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout, requiring the submission of a detailed sustainable surface water drainage scheme and the submission of a verification report in this respect prior to occupation.
- 2.34 The Environment Agency have advised that they consider permission could be granted subject to the imposition of conditions requiring the submission of a strategy to deal with potential risks of contamination, a verification report demonstrating the completion of any required remediation and a condition dealing with any contamination which may be found and was not previously identified. A condition is also suggested in respect of penetrative piling or foundation designs and restricting drainage systems infiltration of surface water other than with the written consent of the local planning authority. Further information provided on the protection of groundwater and disposal of waste would be included as an informative if the outline

application is granted. Affinity Water has been consulted and has no comments to make. Subject to the imposition of the suggested conditions (and submission of further details which could be dealt with at the reserved matters stage), the development is considered to be acceptable, having had regard to the objectives of the NPPF, Policy DM17 and draft Policies CC5 and CC6.

- 2.35 An arboricultural report has been submitted, proposing to remove two category B (moderate quality) trees and one category C (low quality) tree, along with a section of hedgerow at the proposed site access. The Tree and Horticulture Officer has reviewed the proposals, raising concerns about the loss of the very large mature road side Ash tree (T5) located on the south east side of the site, which they consider is a landmark feature. They advise that its loss, without sound justification, would be detrimental to the amenities of the local landscape. The tree appears to be located outside of the visibility splay and as this is an outline application, whereby landscaping is a reserved matter it is considered that this could be addressed further at reserved matters stage (having regard to draft Policy CC8), to seek to either (preferably) retain the tree or to justify its loss with details of further tree planting at the site when the detailed design is submitted.
- 2.36 A preliminary ecological appraisal (PEA), ecological impact assessment, biodiversity net gain (BNG) plan and wintering bird survey have been submitted in support of the application. Whilst numerous species of animals (a common frog and birds) were recorded in the PEA, no evidence of species or habitat suitable for any species which are specifically protected under wildlife legislation was found on the site. A number of wildlife conservation and mitigation measures (which should be incorporated by means of a biodiversity plan) are suggested and the BNG plan anticipates on site measures could achieve and exceed a 10% net gain, recommending that measures are secured through a landscape and ecology management plan (LEMP).
- 2.37 The Senior Natural Environment Officer has been consulted, advising they are satisfied enough ecological survey work has been carried out with which to inform conclusions regarding the potential for ecological impacts to arise because of the proposed development, and to inform the need for and scope of any necessary ecological mitigation measures. There are some minor differences between the Ecological Impact Assessment and the Biodiversity Net Gain Plan (e.g. removal/partial loss of hedgerow H4), but these are not considered to be significant in terms of the conclusions and recommendations and can be addressed at reserved matters / discharge of conditions. They have suggested conditions are imposed requiring the submission of a biodiversity method statement (for the protection of species during vegetation clearance and construction works), an ecological design strategy (including a biodiversity gain plan demonstrating a minimum 10% biodiversity net gain and enhancement measures for the site), a habitat management and monitoring plan (addressing the management of habitats to achieve BNG and all other habitats) and a condition requiring a lighting design strategy (also taking into account guidance on lighting design for bats). Subject to these conditions, the development is considered to be acceptable, having had regard to the NPPF and draft Policies SP13, NE1 and NE2.

Archaeology

- 2.38 In line with the objectives of NPPF Paragraph 194 and draft Policy HE3, a heritage statement has been submitted addressing archaeology and considering that the archaeological potential of the site is very low due to the relatively low frequency of finds recorded within the study area of Palaeolithic, Mesolithic and Neolithic date.

- 2.39 KCC Archaeology have reviewed the proposals and advise that the site lies in a landscape that is generally rich in archaeological remains and the desk-based assessment acknowledged that numerous crop- and soil- marks have been identified on aerial photographs in the fields surrounding the proposed development. These crop and soil marks provide evidence for buried archaeological features and landscape and include several ring-ditches (likely the plough flattened remains of later Prehistoric funerary monuments) as well as various track-ways, enclosures and other features that have been broadly assigned a later Prehistoric or Romano-British date. It is possible that the proposed development may impact buried remains of archaeological interest and they therefore recommend that a condition for a programme of archaeological works prior to the commencement of development is imposed if permission is granted. Subject to the imposition of this suggested condition, the development is considered to be acceptable in respect of draft Policy HE3.

Contributions and Open Space

- 2.40 KCC Economic Development have requested contributions (per applicable household) of £4,540 (Secondary Education), £16.42 (Community Learning), £65.50 (Youth Service), £55.45 (Library Service), £146.88 (Social Care), £54.47 (Waste), with all homes built as wheelchair accessible & adaptable dwellings in accordance with Building Regs Part M 4 (2). The contributions are considered to be acceptable and would be secured through a legal agreement should permission be granted.
- 2.41 Having had regard to Policy DM5 and draft Policy SP5, 30% affordable housing is required to be provided on site. The planning statement submitted includes an affordable housing statement confirming 30% affordable housing will be provided on site and the draft policy sets out a tenure split for this. It is considered appropriate to secure the provision of on-site affordable housing within a legal agreement, with details of the location and tenure of the affordable homes to be submitted within an affordable housing scheme. Subject to this, the development is considered to be acceptable in respect of Policies DM5 and Draft Policy SP5.
- 2.42 Policy DM27 requires applications for residential development to provide or contribute towards the provision of open space. Furthermore, draft Policy PM4 sets out that residential development of 10 or more dwellings will be required to contribute to the provision of new or enhancement of existing indoor sports facilities and outdoor playing pitch and sport facilities to meet the needs of the development and maintain those facilities. A request for contributions towards open space provision has been received from the Planning Policy team. They request £17,333.14 towards open space and play (for a project at Langdon Fields Play Area), £12,350 towards sport – playing pitches (East Langdon Cricket Ground enhancements) and £21,497 towards sport – swimming (Tides Leisure Centre) (figures are based on a total development of 40 dwellings). Again, these contributions would be secured by way of legal agreement and subject to this, the development is considered to accord with Policies DM27 and draft Policy PM4.
- 2.43 Draft Local Plan Policy SP12 sets out the requirements for strategic highway mitigation, with there being 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 area of East Langdon (set out in the Infrastructure Delivery Plan Draft for Consultation October 2022) is set at £2000 per dwelling due to the level of trips generated from new development on these junctions from this zone. The total requirement for the 40 dwelling scheme is £80,000 and this would be secured within a legal agreement.

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

- 2.44 Draft Policy NE3 is a material consideration in the determination of the application and sets out a mitigation strategy to deal with significant effects on the European Sites. The Strategic Access Mitigation and Monitoring Strategy (SAMM) is the result of the emerging local plan habitats regulation assessment which has been agreed with Natural England. The policy relates to development within a 9km radius of the European sites and as the application site falls outside of this area, it is not considered the proposed residential development would result in a likely significant effect on the designated sites (the Thanet Coast and Sandwich Bay Special Protection Area). Natural England have been consulted on the proposals, initially requesting further information, however, in response to the above information, advised that provided the Council (as competent authority under the provisions of the Habitats Regulations) is satisfied the proposed development can be screened out from further stages of assessment because significant effects are unlikely to occur and therefore the strategic solution is not required, they are happy to concur with this conclusion.

Planning Balance

- 2.45 The principle of the development is contrary to the development plan in respect of Policies DM1 and DM11 (however accords with Policies DM15, save for the loss of countryside, and DM16). The site is identified as being suitable for 40 dwellings under the draft Local Plan (Policy SAP46). It is acknowledged that some of the key (adopted) policies in the determination of the application are out of date and hold reduced weight and as such, the tilted balance approach set out in Paragraph 11 of the NPPF is engaged. In such circumstances, permission must be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 2.46 Policy DM1 carries limited weight, however Policy DM11 carries greater weight as it is considered to broadly be in accordance with the key sustainable development objective of the NPPF. The development would generate travel outside of the rural settlement confines contrary to Policy DM11. Notwithstanding this, the site is proposed for allocation for residential development of an estimated 40 dwellings as part of the Submission Draft Local Plan. Subject to the detailed design of the development at reserved matters stage, it is considered the proposal would accord with the objectives of draft Policy SAP46. In allocating the site for development, the local need for housing and sustainability of the location has been considered and found to be acceptable for this level of development. In addition, it is considered that moderate weight can be attributed to the draft policy as it is based on up-to-date housing figures and the NPPF. Furthermore, it is considered that the location of the site, relatively close to a number of facilities and services in nearby settlements, could provide some assistance in providing further custom to local services and the vitality of rural services in accordance with Paragraph 83 of the NPPF, which weighs in favour of the scheme.
- 2.47 The application is for 40 dwellings, 30% of which would be affordable housing. Further public benefits would include construction jobs during the construction of the development and the Section 106 contributions to be spent in the local economy. At this outline application stage, matters such as appearance, landscaping, layout and scale are reserved. Notwithstanding this, it is considered that based on the indicative information provided and subject to the detailed design of the development, 40 dwellings could be accommodated at the site in such a way that there would be an

acceptable impact on the significance of heritage assets, that would preserve the character and appearance of the street scene, countryside and landscape area and that would have an acceptable impact on residential amenity and other material considerations addressed in this report. Overall, it is considered that the disbenefits of the scheme do not significantly and demonstrably outweigh the benefits, with material considerations indicating that permission should be granted, subject to relevant conditions.

3. Conclusion

- 3.1 As outlined above, the site lies outside of the adopted settlement confines and is therefore considered to be within the countryside. The tilted balance approach set out at Paragraph 11 of the NPPF is considered to be engaged as the Policies most important for determining the application are out-of-date and in conflict to a greater or lesser extent with the NPPF. Notwithstanding the location of the site outside the confines (DM1) and the additional travel that would be generated contrary to Policy DM11, the site is proposed in the draft Local Plan (Policy SAP46) for residential development of 40no. dwellings and the policy is considered to attract moderate weight in favour of the proposals. Subject to the detailed design which would be considered at reserved matters stage, it is considered that a scheme for 40no. dwellings could be accommodated at the site which would achieve suitable appearance, landscaping, layout and scale having regard to Policies DM13, DM15, DM16, draft local plan policies and the objectives of the NPPF and Planning (Listed Buildings and Conservation Areas) Act (1990). In light of Paragraph 11 of the NPPF, and in taking into account other material considerations, it is considered that the benefits of the development outweigh the disbenefits and it is recommended that permission be granted.

g) Recommendation

- I OUTLINE PERMISSION BE GRANTED subject to completion of a S106 legal agreement to secure the required contributions and conditions:
- (1) approval of the reserved matters
 - (2) time condition
 - (3) list of approved plans (including the development framework plan)
 - (4) samples of materials
 - (5) biodiversity method statement
 - (6) ecological design strategy
 - (7) habitat management and monitoring plan
 - (8) external lighting strategy
 - (9) construction management plan (including dust and noise control)
 - (10) submission of parameter plan/ design code
 - (11) programme of archaeological work in accordance with a written specification and timetable to be submitted
 - (12) land contamination
 - (13) verification report for any necessary remediation
 - (14) remediation for any contamination found not previously identified
 - (15) restricting use of piling and penetrative foundation designs
 - (16) restricting infiltration of surface water drainage into the ground
 - (17) submission and approval of shuttle working at The Street, including suitable signage and give way markings and gateway feature.
 - (18) evidence of submission of a Traffic Regulation Order, prior to first occupation.
 - (19) submission and approval of details of a footway link with PROW ER44.

(20) provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1 metre above carriageway level within the splays, prior to the use of the site commencing.

(21) the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed in accordance with details to be submitted to and approved by the Local Planning Authority.

(22) submission of a Construction Management Plan

(23) details of surface water drainage for rainfall durations to be submitted with the reserved matters

(24) detailed surface water drainage scheme

(25) verification report relating to surface water drainage

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

Case Officer

Rachel Morgan