

# Public Document Pack



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11 October 2016

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held in the Council Chamber at these Offices on Thursday 20 October 2016 at 6.00 pm when the following business will be transacted.

Members of the public who require further information are asked to contact Kate Batty-Smith on (01304) 872303 or by e-mail at [kate.batty-smith@dover.gov.uk](mailto:kate.batty-smith@dover.gov.uk).

Yours sincerely

A handwritten signature in black ink, appearing to read "Kate Batty-Smith", written over a white background. The signature is fluid and cursive.

Chief Executive

Planning Committee Membership:

F J W Scales (Chairman)  
B W Butcher (Vice-Chairman)  
J S Back  
T J Bartlett  
T A Bond  
D G Cronk  
B Gardner  
D P Murphy  
A F Richardson  
P M Wallace

AGENDA

1 **APOLOGIES**

To receive any apologies for absence.

2 **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

3 **DECLARATIONS OF INTEREST** (Page 4)

To receive any declarations of interest from Members in respect of business to be transacted on the agenda.

4 **MINUTES** (Pages 5-13)

To confirm the attached Minutes of the meeting of the Committee held on 22 September 2016.

5 **ITEMS DEFERRED** (Page 14)

To consider the attached report of the Head of Regeneration and Development.

**ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING**  
(Pages 15-18)

6 **APPLICATION NO DOV/16/00032 - DEACON LANDSCAPE MANAGEMENT, WOOTTON LANE, WOOTTON** (Pages 19-83)

**Outline planning application for proposed residential development of eight dwellings with some matters reserved**

To consider the attached report of the Head of Regeneration and Development.

7 **APPLICATION NO DOV/16/00931 - 135 MIDDLE STREET, DEAL** (Pages 84-89)

**Erection of single storey rear extension, front and rear dormer roof extensions and installation of two rear roof lights**

To consider the attached report of the Head of Regeneration and Development.

8 **APPLICATION NO DOV/16/00838 - 24 AND 24A MILL HILL, DEAL** (Pages 90-97)

**Conversion of existing building from two flats to two dwelling-houses with a two-storey extension to no 24 (existing extensions to be demolished) and erection of a first-floor conservatory to no 22**

To consider the attached report of the Head of Regeneration and Development.

9 **APPLICATION NO DOV/16/00721 - 10 LAMBTON ROAD, DOVER** (Pages 98-105)

**Part change of use from residential to business (for dog sale and re-homing) and associated operational work**

To consider the attached report of the Head of Regeneration and Development.

10 **APPLICATION NO DOV/16/00396 - LAND AT SHORT LANE, ALKHAM** (Pages 106-116)

**Outline application for the erection of three bungalows with all matters**

**reserved**

To consider the attached report of the Head of Regeneration and Development.

11 **APPLICATION NO DOV/15/00864 - 377 LONDON ROAD, DEAL** (Pages 117-124)

**Erection of four detached dwellings with garages, creation of vehicular access and landscaping (existing garage and swimming-pool to be demolished)**

To consider the attached report of the Head of Regeneration and Development.

## **ITEMS WHICH ARE NOT SUBJECT TO PUBLIC SPEAKING**

12 **ENFORCEMENT - HISTORIC REVIEW** (Pages 125-127)

To consider the attached report of the Planning Delivery Manager.

13 **APPEALS AND INFORMAL HEARINGS** (Pages 128-131)

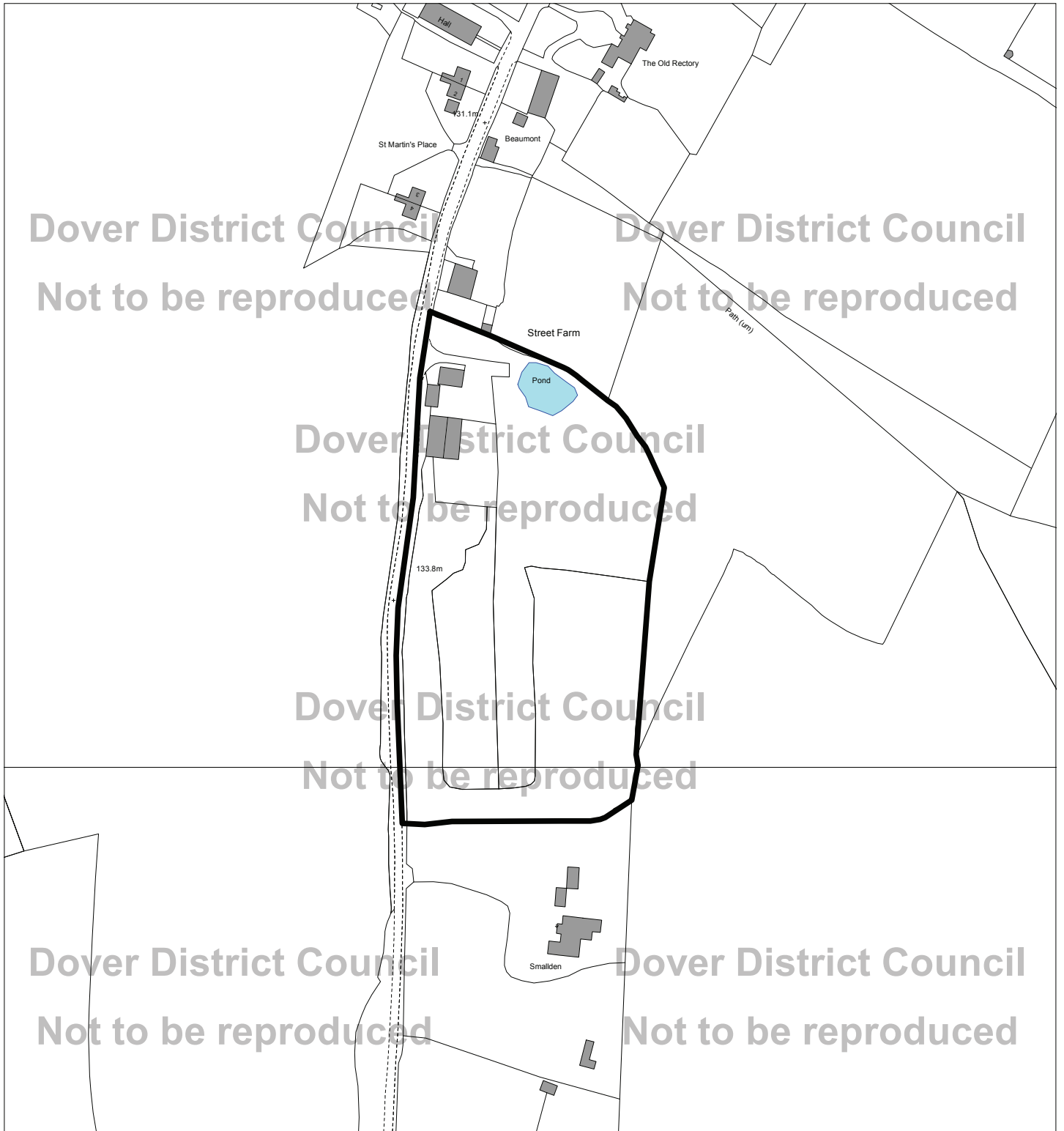
To receive information relating to Appeals and Informal Hearings, and appoint Members as appropriate.

14 **ACTION TAKEN IN ACCORDANCE WITH THE ORDINARY DECISIONS (COUNCIL BUSINESS) URGENCY PROCEDURE**

To raise any matters of concern in relation to decisions taken under the above procedure and reported on the Official Members' Weekly News.

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**Note:** This plan is provided for purposes of site identification only.

**Application: DOV/16/00032**

**Deacon Landscape Management**

**Wootton Lane**

**Wootton**

**CT4 6RP**

**TR22274607**



- a) **DOV/16/00032 - Outline planning application for proposed residential development of 8 dwellings with some matters reserved at Deacon Landscape Management, Wootton Lane, Wootton**

**Reason for report:** Number of contrary views.

- b) **Summary of Recommendation**

Planning Permission be granted.

- c) **Statutory Requirements, Planning Policies and Guidance**

Statute

- Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a general duty upon Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas in the exercise of planning functions.
- Section 85(1) of the Countryside and Rights of Way Act 2000 requires that the Local Planning Authority has regard to regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty in exercising its planning function.

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy. The Hierarchy should also be used by infrastructure providers to inform decisions about the provision of services.
- CP6 - Development that generates a demand for infrastructure will only be permitted if the necessary infrastructure is either already in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 - Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM2 – Permission for change of use or redevelopment of land and buildings currently or last in use for employment purposes will only be granted if the land or buildings are no longer viable or appropriate for employment use.
- DM5 – Developments of between 5 and 14 homes will be expected to make a contribution towards the provision of affordable housing. This may comprise either on-site affordable housing provision or a broadly equivalent financial contribution, or a combination of both. The exact amount of affordable housing, or financial contribution, to delivered from any specific scheme will be determined by economic viability having regard to individual site and market conditions.
- DM11 – Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies.

- DM13 - Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.
- DM15 - Development which would result in the loss of, or adversely affect the character and appearance of the countryside will not normally be permitted.
- DM16 - Generally seeks to resist development which would harm the character of the landscape, unless it is in accordance with a Development Plan designation and incorporates mitigation measures, or can be sited to avoid or reduce the harm and/or incorporates design measures to mitigate the impacts to an acceptable level.

#### Land Allocations Local Plan

- DM27 - Residential development of five or more dwellings will be required to provide or contribute towards the provision of open space, unless existing provision within the relevant accessibility standard has sufficient capacity to accommodate this additional demand.

#### National Planning Policy Framework (NPPF)

- Paragraph 7 of the NPPF sets out the dimensions of sustainable development, defining the economic, social and environmental roles. Paragraph 8 goes on to explain that these roles should not be undertaken in isolation, because they are mutually dependent.
- Paragraph 14 requires that where the development plan is absent, silent or relevant policies are out-of-date development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or, specific policies in the NPPF indicate that development should be restricted.
- Paragraph 17 sets out the 12 core principles of the NPPF which, amongst other things, seeks to:
  - i. proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
  - ii. secure high quality design and a good standard of amenity for all existing and future residents;
  - iii. recognise the intrinsic character and beauty of the countryside;
  - iv. contribute to conserving and enhancing the natural environment and reducing pollution.
  - v. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in the framework;
  - vi. encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value; and
  - vii. actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
- Chapter six of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years' worth of housing.

- Paragraph 49 of the NPPF states that housing applications should be considered in the context of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of housing sites.
- Chapter seven requires good design, which is a key aspect of sustainable development.
- Chapter eleven requires that the planning system enhances the natural and local environment by protecting and enhancing valued landscapes.
- Paragraph 115 requires that great weight is given to conserving landscape and scenic beauty including Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.
- Chapter twelve requires that development has regard for its impact on the significance of heritage assets and their settings.

#### The Kent Design Guide (KDG)

- The Guide provides criteria and advice on providing well designed development.

#### The Kent Downs AONB Management Plan

- The Management Plan sets out policies for the management of the AONB, to conserve and enhance the natural beauty of the AONB.

#### d) Relevant Planning History

**DOV/95/00347** - Change of use of land and buildings from agriculture to use by Deacon Landscape Management together with the removal of the existing pole barn and the erection of a smaller replacement building  
Decision: Approved subject to conditions  
Decided: 16<sup>th</sup> August 1995

Condition 2 on the permission states *“the uses of the premises shall be confined to the use hereby permitted”*, although it noted that the uses class is not specifically defined within the condition or description of development. Condition 3 states that the permission is restricted solely to Deacon Landscapes.

**WOO/13/00113** – An alleged breach of planning, concerning use of the site contrary to the permission, was received on 25<sup>th</sup> July 2013. Specifically the complainant alleges that the site is accommodating manufacturing activity, rather than a landscaping business. The enforcement case remains open.

**DOV/13/00368** - Removal of condition 3 relating to the removal of the named occupant of planning permission DOV/95/00347  
Decision: Approved subject to conditions  
Decided: 10<sup>th</sup> July 2013

Condition 1 of the permission required that the *“site shall be used only for purposes in connection with the landscaping business falling within Class B1(a) and B8”*. Conditions 2 - 5 put restriction on the type of activities that could be undertaken on the site, for amenity protection purposes. Conditions 6 – 8 related to highways and access arrangements.

#### e) Consultee and Third Party Responses

KCC Highways and Transportation – The proposals are unlikely to generate an increase in vehicular movements compared to the existing use. This notwithstanding the site is not in a particularly sustainable location and practically all trips would be made by private vehicles. Sufficient parking is proposed on the site. To this end there are no highways objections to the proposals subject to several conditions in respect of the detail.

DDC Principal Ecologist –

The site is within the AONB and therefore of high sensitivity. The application appears to have addressed this issue and the site is well screened from the wider countryside. In principle, subject to the landscape strategy being conditioned, there are no objections on landscape grounds.

It is noted that dormice occur on the site and that habitat confirmed as supporting dormice will be removed. Whilst the mitigation proposed is considered acceptable it is noted that a license under the Habitat Regulations will be required to undertake these works, and that proper justification will be required.

Reptile mitigation looks satisfactory but should be controlled by condition.

DDC Heritage – No objection the proposed development would not have a detrimental impact upon the character, appearance and significance of the Conservation Area.

DDC Trees – No objection to the proposed removal of the trees, all of low quality and are shielded by more substantial specimens on the boundary.

DDC Environmental Health – The contamination assessments submitted in support of the application are satisfactory. They recommend limited remedial works and appropriate conditions should be attached to secure these. However the presence of Himalayan Balsam has also been identified, but not included in the remediation proposals. A condition should be attached requiring a remediation scheme for the knotweed.

Southern Water – The applicants are advised to consult the Environment Agency concerning proposed foul drainage arrangements. Details of the SUDS should be secured by condition.

Public Representations – 46 letters of support have been received, including from 'Locate Kent, and DDC Head of Inward Investment. All letters of support suggest that the application proposals facilitate the relocation, and subsequent expansion, of a successful local business, thereby directly supporting local economic growth and job creation.

13 letters of objection has been received, raising the following concerns:

- Application site is outside settlement 'envelope' and thereby contrary to the development plan.
- Inappropriate 'expansion' given scale of the village.
- Unsustainable location for additional housing.
- Development would have an unacceptable impact upon the AONB.
- Development would give rise to unacceptable traffic impacts.
- Development would have an unacceptable impact upon the conservation area.
- Development should not be justified on the basis that it relocates an 'unlawful' industrial use – enforcement action should be taken against the 'unlawful' use.



- The relocation of the existing business is not a planning consideration.
- Layout of the development is inappropriate given the character of the village: single depth, fronting on to the street.
- Boundary planting makes significant contribution to character of the surrounding area and must be protected against residents desire to 'open up the site'.
- Addition of playground is unnecessary (no demand within village) and will cause a conflict with neighbouring properties - spare land should be used for village hall car parking not playground.
- The design of dwellings of critical importance to the acceptability of the scheme.

f)

1. **The Site and the Proposal**

- 1.1 The site is located at the southern edge of the hamlet of Wootton, approximately 10 miles to the east of Canterbury City and 9 miles west of Dover.
- 1.2 Wootton has developed in a linear fashion along the key roadways that pass through it, with Wootton Lane providing the main artery running north to south. The site is situated on the eastern side of Wootton Lane.
- 1.3 The site occupies an area of previously developed land currently used by Deacon Landscape Management for the design and production of architectural and landscape structures.
- 1.4 The western half of the site is used for car parking and open storage of materials, set upon a concrete/compacted gravel surface. The eastern half of the site is given over to managed grassland, with various temporary 'test' landscape structures within it.
- 1.5 The frontage to Wootton Lane is open at the northern point allowing the existing buildings to be seen along with the modern vehicle access and car parking hardstanding. The frontage to Wootton Lane beyond the existing building to the south becomes dense formed from hedging and mature trees creating a fairly opaque screen preventing significant visual appreciation of the sites use behind; this landscape screen continues around the southern boundary separating the site from the property known as 'Smallden'. The historic field boundary also encloses the site from the east. The northern site boundary is formed by a less significant hedgerow which separates the site from Street Farm; its closest residential neighbour.
- 1.6 Three buildings exist within the northern most part of the site adjacent to the site entrance. These comprise: two industrial warehouse units (1no single storey and 1no. two storey) with corrugated cladding; and a smaller single storey office building with rendered walls and a corrugated roof. All three buildings have a simple pitched roof construction.
- 1.7 Dwellings upon Wootton Lane further to the north are typically single or two storey in height with dwellings arranged addressing the road on either side. On the western side of Wootton Lane opposite the site is open land in agricultural use. A sparse hedgerow between Wootton Lane and the agricultural land provide limited visual separation allowing the existing DLM buildings to be seen from afar.
- 1.8 Outline planning permission is sought for the redevelopment of the site to accommodate eight dwellings with appearance, landscaping and scale reserved, although indicative details have been submitted to demonstrate how these matters

could be addressed. Thereby permission is sought for access and layout as part of this application.

- 1.9 It is proposed that the main vehicular access point will be moved approximately 40m south along Wootton Lane. However the existing access will be retained, albeit narrowed, to provide access to a small car park. The car park will accommodate nine spaces for patrons of the village hall, which is located approximately 150m north along Wootton Lane.
- 1.10 The layout is characterised by large detached dwellings, with separate garage blocks within generous plots, arranged around a main spine road that runs through the site, with a 'mews court' situated in the north east corner of the site. Much of the existing boundary planting will be retained, with a view to screening the proposed development. An area of open space is proposed adjacent to the new site entrance, providing a focal point and sense of arrival.
- 1.11 The main spine road runs east from the site access, before turning south into the site. The spine road becomes a private drive towards the southern end of site, providing access to three dwellings. A private drive is taken from the spine road to the 'mews court' of three dwellings, situated in the north east corner of the site, which will be screened behind a band of existing planting which will be retained. Two dwellings are accessed directly from the main spine road, one to the east and one to the west.

## 2 **Main Issues**

- 2.1 The main issues are:
  - The principle of the development;
  - Loss of employment
  - Impact upon the AONB and countryside;
  - Impact upon the Conservation Area;
  - Design
  - Residential amenity
  - Highways
  - Ecology
  - Affordable housing
  - Provision of open space

### Assessment

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act (PCPA) requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 2.3 The Development Plan for the application site comprises: Dover District Core Strategy (adopted February 2010) and the Dover District Land Allocations Local Plan (adopted January 2015) and the saved policies of the Dover Local Plan (adopted 2002).
- 2.4 The National Planning Policy Framework is a material consideration.

### Principle of Development

- 2.5 Wootton is not specifically identified in the Settlement Hierarchy (Core Strategy Policy CP1) and is thereby classified as a 'hamlet' which are: *"not suitable for further development unless it functionally requires a rural location"*. Given that

general residential development does not functionally require a rural location, the application proposals are contrary to Policy CP1.

2.6 Having regard to the proposals map the application site itself is situated on land outside of the urban boundaries and rural settlement confines and as such, under Policy DM1 development should not be permitted unless certain exceptions apply:

(i) Unless specifically justified by other development plan policies; or

i. (ii) It functionally requires such a location; or

ii. (iii) It is ancillary to existing development or uses.

2.7 Exceptions (ii) and (iii) clearly do not apply. With regard to the proposals being 'justified by other development plan policies' it is noted that there is some support for the scheme under Policy DM2, in respect of the redevelopment of employment land no longer suitable for employment uses (see below). However given that a large part of the site is undeveloped land, Policy DM2 cannot be said to justify the entire scheme. Thereby exception (i) cannot be said to apply and the proposals must be considered contrary to Policy DM1.

2.8 Thereby the principle of residential development in this location is considered contrary to the development plan policies CP1 and DM1.

#### *Housing Land Supply*

2.9 Whilst the principle of development is contrary to the development plan, it is nevertheless necessary to have regard to material considerations, specifically the NPPF.

2.10 As Members will be aware the District cannot currently demonstrate a five year supply of housing land as required by paragraph 47 of the National Planning Policy Framework (NPPF).

2.11 NPPF paragraphs 49 states that in the absence of a 5 year supply of housing land policies for the supply of housing should not be considered up-to-date. Under NPPF paragraph 14 where policies are not up-to-date planning permission should be granted unless "*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits*" or specific policies in the NPPF indicate that development should be restricted.

2.12 Policies which define settlement boundaries, such as Policy DM1 are generally considered policies for the supply of housing. Thereby Policy DM1 should be considered out-of-date. Whilst Policy CP1 does not define settlement boundaries, it does direct and restrict housing development and thereby should also be considered a policy for the supply of housing, and thereby out-of-date also for the purposes of this planning application.

2.13 To this end it is necessary to undertake a balancing exercise of adverse impacts and benefits in the determination of this application. The balancing exercise is set out under the heading 'Planning Balance' at the end of the assessment section.

2.14 However it should be noted that the policies of the development plan cannot be ignored simply because the NPPF directs that they are out-of-date. Rather it is for the Council to determine how much weight should be attached to the policies of the development plan and how much weight to attach to the policies of the NPPF, specifically the presumption in favour of sustainable development, in the determination of the planning application. Again this weighing exercise is set out under the heading 'Planning Balance' at the end of the assessment section.

### Previously Developed Land

- 2.15 A Core Principle of the NPPF, as set out at Paragraph 17, is that planning should *“encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value”*.
- 2.16 The glossary of the NPPF defines previously developed land as:
- “Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”*
- 2.17 It is considered that the western half of the site, which comprises the buildings and hard standing given over to open storage, is previously developed land. Whilst the eastern half of the site contains some temporary ‘test’ structures and is managed grassland, this is not considered to fall within the definition of previously developed land.
- 2.18 Whilst part of the application site comprises previously developed land, the site is within the AONB and also has ecological value, and thereby must be considered to be of high environmental value. The weight to be given to the environmental value of the site is considered under the planning balance section of this report.

### Employment Land

- 2.19 As noted above the entire application site has an extant permission for B1(a) and B8 uses, albeit restricted to ‘landscaping businesses’. To this end the site is subject to Policy DM2 which seeks to prevent the loss of employment land.
- 2.20 Policy DM2 does however explicitly allow for the change of use or redevelopment of employment land *“if the land or buildings are no longer viable or appropriate for employment use”*. It is thereby necessary to consider if the site is viable or appropriate for: the current occupiers (Deacon Landscapes); an alternative landscaping business (in accordance with the conditions of the extant permission); or an alternative employment use and occupier altogether (outside of the scope of the extant permission).

#### *Current Occupiers – Deacon Landscapes*

- 2.21 Information submitted in support of the planning application demonstrates that the site is no longer suitable for use by Deacon Landscapes Management (DLM), whose business has effectively outgrown the site. The submitted Design and Access statement explains:

*“Demand for DLM products is strong and DLM expect to continue increasing sales by 20% annually over the next 5 years, providing employment for a further 40 staff in sales admin, and production roles mainly drawn from the immediate districts.*

*The forecast expansion would require an increase in premises size of 2000sqm from the current 500sqmm which is already inadequate for DLM’s current needs, with cramped conditions making it difficult to maintain a safe working environment and efficient working practices, operating hours restrictions hindering the*

*opportunity for additional shifts to satisfy demand during the peak periods, and a poor road network which is not suitable for HGV's.*

*The combination of these factors means that the DLM use of the site is at something of a watershed."*

- 2.22 As demonstrated by the extant enforcement complaint there are concerns about the residential amenity impacts of DLM's continued use of the site. Whilst it is acknowledged that the amenity concerns are to some extent resolved by the conditions attached to the extant permission, it is noted that these restrictions undermine the viability and appropriateness of the site for DLM's continued use and has contributed to their wanting to vacate the site.
- 2.23 In light of the type of activities that are undertaken on the site it is understood that DLM have been advised by DDC Enforcement, should they remain on the site, they will need to make a planning application for a change of use to B2. There is no certainty, given the proximate residential properties, that an application for B2 would be approved.

#### *Alternative Landscape Business*

- 2.24 Whilst no marketing exercise has been undertaken for the site, it is considered unlikely that an alternative landscape business would wish to locate in what is a relatively remote location, with considerable restrictions on the activity that can be undertaken on the site (as set out by the extant permission).
- 2.25 It is thereby considered that the site cannot continue to be occupied under the terms of the current planning permission, if and when DL vacate the site.
- 2.26 It is noted that Policy DM2 does not specifically require a marketing exercise to be undertaken to assess the viability or appropriateness of the site for employment uses.

#### *Alternative Employment Use*

- 2.27 Policy DM2 is concerned with the supply of employment land broadly and as such it is necessary to consider if alternative employment uses could be viable and appropriate for the site.
- 2.28 It is considered that, given the remote location of the site, and the potential impacts upon residential amenity, the site is not particularly appropriate to accommodate an alternative employment use, unless it specifically requires a rural location.
- 2.29 It is noted that an application for a commercial building on the site would be unlikely to comply with Policy DM3, Commercial Buildings in the Rural Area, unless it could be demonstrated that there was a functional requirement to be in this location.

#### *Summary*

- 2.30 In summary it is considered that, given that the site is no longer suitable for DLM, and, due to the remote location of the site and the amenity restrictions placed upon the site by the presence of the nearby residential properties, alternative employment uses are also very unlikely to be viable or appropriate for the site. Thereby a change of use or redevelopment of the site to an alternative non-employment use is supported in principle under Policy DM2.
- 2.31 However Policy DM2 does not provide guidance as to the acceptability of housing on this site as an alternative to an employment use. It is assumed that regard needs to be had to other development plan policies, the particular characteristics

of the site and other material considerations. Conclusions are drawn in this regard at the end of this assessment.

#### Relocation of Deacon Landscape Management

- 2.32 A Core Principle of the NPPF is to *“proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs”* (paragraph 17). Within this context paragraph 19 goes on to state:

*“The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable economic growth. Therefore significant weight should be placed on the need to support economic growth through the planning system”.*

- 2.33 Within this policy framework the applicants have explained that the application proposals will facilitate the growth and expansion of their existing business. Specifically the proceeds arising from the residential redevelopment of the site, will allow DLM to relocate their business to a larger, more appropriate site on an industrial estate elsewhere within Dover District. The applicants have provided a copy of an option agreement they have entered into for a site in White Cliff Business Park.
- 2.34 They have provided an ‘Economic Benefit Statement’ which seeks to demonstrate the economic and employment value of moving the business. It is suggested that the business would grow from directly employing around 30 Full Time Equivalents (FTE) at present, to employing around 70 FTE by 2020, should the relocation of the business be successful.
- 2.35 Whilst it is agreed that the relocation of DLM could potentially deliver substantive economic and employment benefits, it is important to acknowledge that there is no guarantee that these benefits would be secured through the granting of planning permission for the current application proposals. This is because the permission runs with the land and so the site could simply be sold on by DLM.
- 2.36 This notwithstanding the applicants have suggested that they could enter into a Section 106 planning agreement which would restrict the occupation of dwellings on the site to the DLM relocating to the identified option agreement site in White Cliff business park. However it should be noted that if circumstances changed in the future for whatever reason, the obligation may not be considered ‘fair and reasonable’ and could be varied.
- 2.37 To this end it is suggested that some limited weight can be attached to the envisaged relocation and expansion of the business, in the determination of this planning application.

#### Character & Appearance – AONB and Countryside

- 2.38 The site lies within a protected AONB landscape and the countryside and is thereby subject to Policy DM15 which seeks to protect the character and appearance of the countryside. This development plan policy requirement is in accordance with the statutory requirement set out in the Countryside and Rights of Way Act 2000 to have regard to the *“purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”* in exercising its planning function.
- 2.39 The proposals are also subject to the NPPF requirement in respect of the AONB, notably paragraph 115 which states that *“great weight should be given to*

*conserving landscape and scenic beauty in... Areas of Outstanding Natural Beauty*".

- 2.40 NPPF Paragraph 116 state that: *"Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest."* For residential developments the Development Management Procedure Order 2015 defines a major development as 10 dwellinghouses or more. Given that the application is for 8 units, the requirements of Paragraph 116 do not apply in this instance.

*Site and Surroundings - Contribution to the Character of the AONB*

- 2.41 The Kent Downs AONB Management Plan identifies that the Kent Downs AONB is made up of "diverse special characteristics and qualities" which contribute towards its scenic and natural beauty; these are not limited just to landscape characteristics.
- 2.42 The area local to the application site contribute to the characteristic and qualities of the Kent Downs AONB in a number of ways:
- The application site falls within the 'East Kent Downs' Landscape Character Area (LCA). The area local to the application site has a number of characteristics which have been identified as contributing towards the character of the East Kent Downs LCA:
    - Long wooded ridges - visible to the west of the site from the site entrance, running north to south;
    - Large arable fields on ridge top plateaux - evident on the land to the south east of the site, although it is noted that there is no visual connection with this landscape due to the dense vegetation that defines the site boundary;
    - Tiny remote settlements incorporating traditional building materials - of which Wootton is an excellent example;
    - Narrow uncultivated banks or 'shaws' – these define field boundaries locally, and indeed define the site boundary;

Policy LLC1 of the Management Plan states that *"the protection, conservation and enhancement of special characteristics and qualities, natural beauty and landscape character of the Kent Downs AONB will be supported and pursued."*

It is noted that, with the exception of the hedgerows and trees that define the site boundaries, the application site itself (either the developed land or the undeveloped land) does not contribute to the characteristics of the East Downs LCA. Indeed, as is discussed further below the current condition of the site detracts somewhat from the character of the East Downs LCA.

- A key characteristic of the AONB is its biodiversity. Whilst the surrounding area is not subject to any environmental designations, there are features which support biodiversity, most notably the trees and hedgerows that define field boundaries. The vegetation that defines the boundaries of the site is known to support biodiversity and this is discussed further under the ecology section below.
- The farmed landscape is a key characteristic of the Kent Downs AONB. Policy FL1 of the Management Plan seeks to *"retain the principally farmed character for which it [the AONB] is valued"*.

Much of the land surrounding the application site is within active agricultural use, although residential uses immediately adjoin the site to the north and south. However the site itself is not in agricultural use and indeed its current use somewhat at odds with the farmed landscape character.

- Historic and cultural heritage are also a key characteristic of the Kent Downs AONB. Management Plan Policy HC1 states that *“the protection, conservation and enhancement of the historic character and features of the Kent Downs landscape and its historic character will be pursued...”*

The application site falls partially within the Wootton Conservation Area. The Wootton Conservation Area is a fine example of an historic, small rural Kentish settlement, and thereby makes a significant contribution to the character of the Kent Downs AONB. As is discussed in more detail below, the application site itself detracts somewhat from the character and appearance of the Conservation Area, and thereby the AONB.

- 2.43 In summary whilst the area surrounding the application site displays many of the characteristic that contribute to the scenic and natural beauty of the AONB, the contribution made by the site itself is somewhat limited. Given the current commercial use of the site, it is only the site boundaries that make a discernable positive contribution to the character of the AONB in respect of landscape character and biodiversity. Indeed the activity and development currently on the site detract from the AONB in respect of the character of the historic environment and the farmed landscape.

*Assessment – Impact of Development upon character of AONB*

- 2.44 The buildings and the activities currently taking place on the site are incongruous in appearance and character of the AONB. They are utilitarian and unprepossessing buildings. There are substantial areas for external storage. The use generates movements by heavy commercial vehicles. The impact stretches beyond the site boundaries. The buildings, activities and movements on the country lanes associated with the use all undermine the character and appearance of the protected landscape.
- 2.45 It is however acknowledged that the proposals comprises development of land which is undeveloped. Whilst this land is undeveloped it is noted that this land does not particularly contribute to the character and appearance of the AONB in its present condition. The site is characterized by managed grassland with various temporary structures and does not display that landscape or other characteristics for which the AONB is valued. Furthermore this area of undeveloped land is heavily screened by existing boundary planting and thereby has no visual relationship with the surrounding AONB landscape and farmland.
- 2.46 The replacement of incongruous, large scale buildings and their activities with an attractive residential scheme would introduce a much more appropriate, higher quality, well landscaped development on the southern edge of Wootton. The removal of the DLM buildings, storage and activity and their replacement with this new development would create a much more attractive interface between this southern part of the village and the surrounding countryside.
- 2.47 The landscape strategy drawing demonstrates the setting of the site within heavily screened boundaries. Those would be retained and reinforced with the proposals. This ensures that contribution made by the boundaries to the character of the AONB will be maintained.
- 2.48 Further, the majority of the development is set well into the heart of the site, some distance from any public vantage points as a consequence of maintaining the site



boundaries. Units 1 and 8 and their associated garages are located in the broad area currently occupied by buildings. There would inevitably be some limited partly screened views of those properties from the public highway. However the proposed pattern of built development comprising 8 individual detached houses, would be set within this sylvan context. Their position away from the internal access road would contribute to this heavily landscaped countryside setting. The result would be a distinguished grouping of dwellings encapsulate within a heavily screened and sylvan setting.

- 2.49 It is considered that the proposed development would be more in keeping with the character and appearance of the AONB than the development currently occupying the site, particularly with respect to its relationship to the historic settlement of Wootton.
- 2.50 In summary the proposals would result in an enhancement of the character and appearance of the AONB and the countryside. The requirements of Policy DM15, paragraph 115 of the NPPF and the obligations under the Countryside and Rights of Way Act would be met.

#### Character and Appearance – Conservation Area

- 2.51 The site partly falls within the Wootton Conservation Area. Under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 'Act') special attention must be paid to whether the development would preserve or enhance the character or appearance of the Conservation Area.
- 2.52 Additionally, the NPPF requires that regard must be had for whether the development would harm the significance of both designated and non-designated heritage assets and, where harm is identified (either substantial or less than substantial) consider whether this harm is outweighed by public benefits.
- 2.53 It is noted that whilst the application is in outline, full permission is sought for the layout and it is thereby important to consider the relationship of the proposed layout to the character of the Conservation Area.
- 2.54 There is a wide variety of buildings in Wootton in terms of their range, size, design and layout. Some of the development is linear following the alignment of the lanes, but others is set back in depth. Whilst there is no Conservation Area Character Appraisal it is considered that a key part of the character (and significance) of the Conservation Area comprises its rural setting and backdrop.
- 2.55 As noted above it is considered that the buildings and the activities currently taking place on the site are incongruous in appearance and character of the surrounding countryside and are also not in keeping with the built character of Wootton. Thereby the site as it is currently arranged detracts from the character and appearance (and significance) of the Conservation Area.
- 2.56 The residential properties now proposed better reflects the uses, pattern and form of the buildings within the Conservation Area. Specifically the proposed two storey dwellings and the density of the development which is proposed in the scheme would be broadly in keeping with the existing built form of Wootton.
- 2.57 However it is noted that the proposed layout does not continue the relationship of buildings fronting on to the Wootton Lane, albeit with different depths of setbacks, that is predominant within the village. Rather than extending this pattern of development along the frontage with Wootton Lane, the applicants have sought to maintain the existing boundary planting as a screen to the new residential development, with a view to better integrating the site into the landscape and minimizing the visual impacts upon the AONB. This is considered an appropriate

design strategy which will not detract from the character and significance of the Conservation Area.

- 2.58 On balance, whilst the proposals are not entirely in keeping with built form of the Conservation Area, it is considered that they would protect and in some respects enhance the character and appearance of the Conservation Area, through the removal of detracting buildings and activities associated with the current use and replacement with a more appropriate use and building forms.
- 2.59 Further it is considered that the proposed landscaping scheme will integrate the new development into the landscape, which also will contribute toward preserving the character and appearance of the Conservation Area. The proposals are thereby considered to be in accordance with Section 72(1) of the Act. The proposals would not cause any harm to the conservation area as a heritage asset and are therefore acceptable under the corresponding policy requirements in the NPPF.

#### Impact on Residential Amenity

- 2.60 It is noted that there is a significant distance (some 50m to the north and 55m to the south) between the proposed properties and neighboring properties. Further due to the retained and enhanced boundary planting direct views between properties will be further screened. As such there will be no amenity impacts upon neighboring properties, in terms of privacy or overlooking, daylight and sunlight.
- 2.61 Concerns were raised by local residents regarding the potential residential amenity impacts of the proposed children's play area. In response to this the play area has been relocated into the site and away from the neighbouring residential properties. Whilst an area of open space has been retained at the site entrance, it is considered that this could be designed so as to be a space for quiet relaxation, which would not give rise to amenity concerns and would be more appropriate to the character of the village.
- 2.62 In summary, taking account of the relocation of the play area officers have no objections to the scheme itself on amenity grounds.
- 2.63 The amenity implications of the extant employment use are discussed above. In summary to ensure the extant employment activities on the site do not impact upon residential amenity requires compliance with the extant permission and conditions. However doing so make the site unsuitable and unviable for DLM and other potential occupiers, thereby supporting the principle of change of use from employment.

#### Impact on the Highway

- 2.64 Policy DM12 of the Core Strategy requires that developments provide suitable access arrangements, whilst Policy DM13, being informed by Table 1.1, requires that development provides a level of car and cycle parking which balances the characteristics of the site, the locality, the nature of the proposed development and design objectives.
- 2.65 The Council's highways advisors have confirmed that the proposed development would not generate an increase the number of movements to and from the site compared to the existing use.
- 2.66 Furthermore it is noted that the proposed development would significantly reduce the number of HGV movements to and from the site which is considered a highways benefit given the narrow lanes in the surrounding area.

- 2.67 It is noted that no objections have been raised concerning the access and internal road layout, in respect of safety.
- 2.68 It is also noted that sufficient parking is proposed on the site to meet the Council's residential parking standards.
- 2.69 In summary there are no objections to the proposal on highways grounds, and the proposals are in compliance with Policy DM12 and DM13.

#### Contributions

- 2.70 Core Strategy Policy DM5 requires that for schemes of 5 to 14 dwellings an on-site provision of affordable housing or an equivalent financial contribution (or a combination of both) will be required. Where off-site contributions for affordable housing are to be sought, a sum equivalent to 5% of the Gross Development Value will be sought.
- 2.71 The applicant has suggested that payment of the affordable housing financial contribution would make the relocation of the business unviable and have submitted a viability appraisal in support of this.
- 2.72 An independent assessment of the submitted Viability Appraisal has been undertaken on behalf of the Council both in respect of the value generated by the redevelopment of the existing site to residential and the cost of relocation of the business.
- 2.73 The assessors have first undertaken a residual appraisal based on the proposed development. They consider that the land value, on the assumption that the site benefits from planning permission for the proposed scheme is around **£1,145,000**, reducing to approximately **£920,000**, when factoring in an allowance for a 5% of GDV contribution towards off-site affordable housing.
- 2.74 The independent assessors have identified that the Existing Use Value of Deacon Landscape's existing premises, on a vacant possession basis at £250,000, which is lower than suggested by the applicants £298,000. This figure has specific regard to the planning restrictions that apply to the existing site, and the implications for future development.
- 2.75 Of greater importance are the costs associated with the relocation of the existing business. Whilst it is prudent to consider this on an 'open market' basis, Deacon Landscape have agreed to purchase approximately 1 acre of industrial land at White Cliff's business park in the sum of £380,000. The Council's assessors suggest that this figure is steep, but they acknowledge that a relative scarcity of such opportunities exist with direct road frontage.
- 2.76 The Council's assessors have undertaken an illustrative residual appraisal on this basis. Including the land purchase price, and scheme costs, they have allowed for a total sum of **£1,412,228**. This is the most pertinent figure within the appraisal, as it shows the estimated outlay required by Deacon Landscapes in relocating to the agreed purchase site.
- 2.77 This results in a loss of **-£287,228**, when taking into the anticipated capital value of the proposed premises, versus costs. This suggests that the acquisition and proposed scheme does not seem economically wise, however, it is acknowledged that there is a shortage of potential sites/premises within the vicinity and furthermore scope to further develop the land in the future.
- 2.78 In conclusion, the proposed residential development scheme cannot viably support a 5% of GDV contribution towards off-site affordable housing, as the anticipated

capital receipt from the redevelopment site, falls below the anticipated land acquisition/scheme costs relating to an agreed deal involving the relocation to a 1 acre site at the White Cliffs business park.

### Open Space

- 2.79 In accordance with Policy DM27 of the Land Allocations Local Plan, the development would also be expected to provide Open Space on site, or a contribution towards off- site provision, to meet the Open Space demand which would be generated by the development. In this instance, the Principal Infrastructure and Delivery Officer has advised that the development would create a need for additional children's play space which is being accommodated on the site. Policy DM27 is therefore complied with.

### Ecology

- 2.80 NPPF Paragraph 109 states that the planning system should *"[minimize] impacts on biodiversity and provide net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity"*.
- 2.81 A Phase 1 Habitat Survey submitted in support of the planning application demonstrates that *"the site in general is considered of low ecological value with internal habitats comprising of common and widespread habitats types, the greatest ecological value is found within the boundary habitat."*
- 2.82 With regard to reptiles the survey report highlights that there are a low numbers of reptiles recorded within the site comprising a small population of grass snake and slow-worm utilising habitats to the east of the site. It is acknowledged that the works will have an impact upon these identified species and a package of mitigation is proposed. DDC ecologist confirms that these measure appear appropriate but should be controlled by a suitably worded condition.
- 2.83 The bat activity surveys confirmed low to moderate levels of foraging and commuting bat activity at the site with a minimum of four species recorded at the site. Highest levels of bat activity were recorded to the east and south of the site. No bats were recorded emerging from the office building at the site. Again mitigation measures are proposed to ensure that bat activity is maintained and an appropriately worded condition would be attached to the permission to secure this.
- 2.84 The dormouse survey (November 2015) confirms the presence of this species at the site with a single nest found during the October survey visit at the site. The applicants acknowledge that the proposed works will require the loss of dormouse habitat at the site therefore mitigation is proposed which includes a sensitive clearance of suitable dormouse habitats and habitat creation and enhancement at the site to ensure that the Favourable Conservation Status of Dormice is maintained at the site. DDC ecologist explains that, whilst this mitigation appears acceptable a licence under the habitats regulation will be required to undertake works at the site.
- 2.85 It is considered that provided the appropriate mitigation is included it is anticipated that the proposals will have minimal impact upon the protected species highlighted and the proposed site enhancements will maintain and increase the ecological value of the site provide suitable habitat for a range of wildlife including invertebrates, breeding birds, bats. The proposals are thereby considered to be consistent with NPPF paragraph 109.

### Planning Balance

- 2.86 The above analysis has demonstrated that whilst there is development plan policy support for a change of use on the site from employment on the application site, there is also an in principle development plan policy conflict with accommodating new housing in this location.
- 2.87 However, regard must be had to presumption in favour of sustainable development and that the Council cannot demonstrate a five year supply of housing land. A balancing exercise of benefits and adverse impacts must therefore be undertaken, having regard to the three dimension of sustainable development.

#### Economic

- 2.88 In terms of economic benefits the most notably is that the proposals will facilitate the relocation and expansion of an existing successful local business. As noted above it is considered that the Council cannot robustly secure this, although the applicants have suggested that a legal agreement is attached to the permission. Nevertheless this is considered an economic benefit to which regard should be had in the planning balance, albeit with only limited weight attached.
- 2.89 In addition there would also be an economic benefit associated with the construction of the housing.

#### Social

- 2.90 The proposals will give rise to social benefits associated with the provision of housing and meeting housing need. Whilst the development does not include any social housing increasing the supply of market housing is a social benefit, especially in circumstances where the council cannot demonstrate a five year supply of housing land.
- 2.91 It is also noted that there are social benefits, for the local community in terms residential amenity improvements associated with the change of use of the site from employment to residential.
- 2.92 Whilst there clearly would be some residential amenity implications associated with the construction period and the new occupants of the housing, particularly associated with traffic, this is considered to be far less than the existing use.

#### Environmental

- 2.93 The site is situated within the countryside and the AONB which enjoys the highest level of protection in relation to landscape and scenic beauty. The site is also partially within the Wootton Conservation Area.
- 2.94 It has been shown that, even though part of the site is undeveloped it only makes a limited contribution towards the character of the AONB, in respect of the hedgerows and trees that define the site boundaries. Indeed the current activities and development situated on the site discernably detract from the character of the AONB. Similarly this activity and development also detracts from the character of the Conservation Area.
- 2.95 It has been shown that the proposals are likely to give rise to landscape and visual enhancements associated with the redevelopment of the existing buildings and open storage area which are incongruous and detrimental to the character of the countryside, AONB and Conservation Area. These enhancements will however be subject to ensuring the high quality design is secured through the reserved matters application.

- 2.96 Furthermore it is noted that the proposals comprise the redevelopment of previously developed land, which ensure the efficient use of land which is an environmental benefit.
- 2.97 Whilst the proposals would give rise to some detrimental ecological impacts these can also be mitigated through the imposition of conditions to secure appropriate measures at the detailed design stage.
- 2.98 In respect of the environmental dimension it is considered that the impact of the proposals would be potentially beneficial, provided that the reserved matters details and ecological mitigation measures are of an appropriately high standard.

#### Balance

- 2.99 The above analysis has demonstrated that there is no conflict with the AONB or designated heritage assets, the second limb of the NPPF paragraph 14 concerning 'specific policies in the Framework that indicate development should be restricted' does not apply.
- 2.100 Turning to the first limb, concerning the balance of benefits and adverse impacts, the above analysis has demonstrated that the proposals will give rise to environmental, social and economic benefits due to the redevelopment of previously developed land and the sensitive approach that is being taken to the layout and landscaping of the site. No significant and demonstrable adverse impacts have been identified.
- 2.101 Paragraph 14 of the NPPF thereby justifies a departure from the development plan.

#### Overall Conclusions

- 2.102 The outline proposals comprises the redevelopment of an existing employment site to accommodate eight residential dwellings. The site is situated outside of urban and village confines and such Policy DM1 states that development will not be permitted in this location.
- 2.103 However Core Strategy Policy DM2 supports the change of use or redevelopment of unsuitable and unviable employment sites to alternative uses. The applicants have demonstrated that the site is no longer viable or suitable for their business and it is accepted that it is unlikely to be suitable for alternative employment uses or activities given the neighbouring residential properties and the remoteness of the site.
- 2.104 Policy DM2 does not however provide guidance on the acceptability of housing in this location, and thereby regard needs to be had to other development plan policies and material considerations.
- 2.105 In this regard it is noted that there is strong policy support in the NPPF for the redevelopment of previously developed land and, given neighbouring residential properties, housing seems an entirely appropriate for the PDL part of the site. However there is no such policy justification for the undeveloped part of the site which could feasibly remain undeveloped or given over to agriculture.
- 2.106 However, given the absence of a five year housing land supply regard must be had to the presumption in favour of sustainable development in the determination of this application. The above analysis has demonstrated that the benefits of

development as a whole (including on the undeveloped part of the site) very clearly outweigh the adverse impacts.

2.107 This NPPF Paragraph 14 support, taken together with the Policy DM2 support for a change of use and the support for the redevelopment of previously developed land, is considered to outweigh the conflicts with development plan policies CP1 and DM1.

2.108 It is recommended that permission is granted subject to conditions.

g)

**Recommendation**

- I Subject to the submission and agreement of a s106 agreement to secure contributions, PERMISSION BE GRANTED subject to conditions to include:-
  - (i) approved plans, (ii) reserved matters details including appearance, landscaping and scale, (iii) samples of materials to be used, (iv) tree retentions plan, (v) provision of car parking, (vi) provision of cycle parking, (vii) provision and retention of access, (viii) construction management plan, (ix) details of ecological enhancements, (x) removal of permitted development rights relating to extensions, enlargements, alterations, (xi) full details of surface water drainage scheme, including maintenance, (xii) full details of foul water drainage scheme, including maintenance, (xiii) provision of refuse storage.
- II Powers to be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and to agree a s106 agreement, in line with the issues set out in the recommendation and as resolved by Planning Committee. A copy of this assessment, undertaken by Savills and a copy of the applicants assessment carried out by Strutt & Parker are appended to this report.

Case Officer

Tom Ashley