

# Public Document Pack



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9 December 2020

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **PLANNING COMMITTEE** will be held as a Remote Meeting - Teams Live Event on Thursday 17 December 2020 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, Democratic Services Officer on (01304) 872303 or by e-mail at [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Nicky', written over a white background.

Chief Executive

## Planning Committee Membership:

J S Back (Chairman)  
R S Walkden (Vice-Chairman)  
M Bates  
D G Beaney  
E A Biggs  
T A Bond  
D G Cronk  
O C de R Richardson  
H M Williams  
C F Woodgate

## 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 5-9)

To confirm the attached minutes of the meeting of the Committee held on 19 November 2020.

5 **ITEMS DEFERRED** (Page 10)

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

**ITEMS WHICH ARE SUBJECT TO PUBLIC SPEAKING**  
(Pages 11-16)

6 **APPLICATION NO DOV/20/01076 - LAND NORTH-EAST OF THE CLOSE NURSERY, STATION ROAD, ST MARGARET'S-AT-CLIFFE** (Pages 17-28)

**Erection of a detached dwelling with double garage and associated parking**

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

7 **APPLICATION NO DOV/20/01063 - MORFIELD HOUSE, 11 BEWSBURY CRESCENT, WHITFIELD** (Pages 29-38)

**Erection of a dwelling and detached garage with associated access**

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

8 **APPLICATION NO DOV/20/01125 - SITE AT CROSS ROAD, DEAL** (Pages 39-82)

**Outline application for the erection of 100 dwellings with associated parking and means of access (all matters reserved except for access)**

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

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

9 **APPEALS AND INFORMAL HEARINGS**

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

10 **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.

#### **Access to Meetings and Information**

- The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 have changed the basis of the public's legal right to attend meetings. This means the public now has the right to hear Councillors attending the remote committee meeting that would normally be open to the public to attend in person. It is the intention of Dover District Council to also offer the opportunity for members of the public to view, as well as hear, remote meetings where possible. You may remain present throughout them except during the consideration of exempt or confidential information.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website [www.dover.gov.uk](http://www.dover.gov.uk). Minutes will be published on our website as soon as practicably possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Kate Batty-Smith, Democratic Services Officer, [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk), telephone: (01304) 872303 or email: [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk) for details.

**Large print copies of this agenda can be supplied on request.**

**Declarations of Interest**

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

Minutes of the meeting of the **PLANNING COMMITTEE** held remotely on Thursday, 19 November 2020 at 6.00 pm.

Present:

Chairman: Councillor R S Walkden (Vice-Chairman in the chair)

Councillors: M Bates  
D G Beaney  
E A Biggs  
T A Bond  
P M Brivio  
P D Jull  
O C de R Richardson  
H M Williams  
C F Woodgate

Officers: Team Leader (Development Management)  
Planning Officer  
Planning Consultant  
Planning Solicitor  
Democratic Services Manager  
Democratic Services Officer

The following persons submitted written statements which were read out by the Democratic Services Manager in lieu of public speaking:

<u>Application No</u>	<u>For</u>	<u>Against</u>
DOV/20/00304	Mr Clive Tidmarsh	-----

60 APOLOGIES

It was noted that apologies for absence had been received from Councillors J S Back and D G Cronk.

61 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors P D Jull and P M Brivio had been appointed as substitute members for Councillors J S Back and D G Cronk respectively.

62 DECLARATIONS OF INTEREST

There were no declarations of interest.

63 MINUTES

The minutes of the meetings held on 24 September and 29 October 2020 were approved as correct records and signed by the Chairman.

64 CHAIRMAN'S ANNOUNCEMENT

The Chairman announced that Agenda Items 8 (Application No DOV/19/01260 – Land off Church Lane, Deal) and 9 (Application No DOV/20/00544 – Meadow

Cottage and Land rear of Meadow Cottage, The Street, Preston) had been withdrawn from the agenda.

65 ITEMS DEFERRED

The Chairman referred to the deferred item having been withdrawn from the agenda.

66 APPLICATION NO DOV/20/00304 - LAND FRONTING CHAPEL HILL, EYTHORNE

Members were shown drawings, plans and photographs of the application site. The Planning Consultant advised that planning permission was sought for the erection of a detached house with two parking spaces. A late representation had been received reiterating concerns about traffic congestion and the width of Chapel Hill.

Officers considered that the house was well-designed and would enhance the street scene. Moreover, it was acceptable in terms of its impact on the residential amenity of neighbouring properties. However, Kent County Council (KCC) Highways had raised objections because the scheme could not achieve the necessary visibility sightlines. In this regard, the access proposal crossed land that was not highway land or within the ownership of the applicant and, as such, breached KCC's requirements for visibility splays. Furthermore, the exact location of the highway boundary needed to be investigated and confirmed.

Councillor H M Williams commented that she understood that the applicant had been advised that the highway boundary would need to be established with KCC's highway definition team. However, this had not been done. She argued that Members were required to assess the application on the basis of the details provided, and should not be distracted by technical matters that were outside their realm of expertise. The Planning Consultant clarified that it was for the planning agent to establish and provide evidence in respect of the highway boundary. Both the north and south sightlines were problematic in that the land they would traverse was outside the control of the applicant. This cast doubt on the applicant's ability to retain and maintain the sightlines in perpetuity. It also prevented a condition being imposed as compliance would rely on a third party.

Councillor P D Jull referred to the southern sightline which would run across the forecourt of the garage and the northern one which appeared to cross a piece of open grass. Councillor T A Bond was of the view that, given that the proposal was acceptable in all other respects, the application should be approved subject to the installation of mirrors at the access. He commented that the northern access would not cross a private property which meant that nothing could be built there in the future.

The Planning Consultant explained that KCC Highways would not accept mirrors as a means of making an unsafe access safe. He clarified that a boundary enclosure adjacent to a highway which was over one metre in height would require planning permission and the Council would be able to determine the application having considered its impact upon highway safety. However, a boundary enclosure along a side boundary and not adjacent to a highway could be two metres in height, but would not require planning permission and could not then be controlled by the local planning authority. The sightlines, which were currently 22 metres to the north and 19 metres to the south, were required to be 43 metres either side and could not be achieved on land that was within the applicant's ownership.

Councillor M Bates commented that he had visited the site and had observed a proliferation of parked cars and that views up Chapel Hill were obscured. This would make it difficult for cars to exit the site safely. He was also aware that the road had a history of speeding cars. These factors led him to support KCC Highways' advice. The Planning Consultant confirmed that Officers would be looking for the applicant to come to an agreement with any third party as this would allow a condition to be imposed. If the Committee was minded to refuse, an informative could be added to the effect that the application was likely to be acceptable if further satisfactory evidence of ownership of land currently outside the application site was provided to enable the sightlines to be provided in perpetuity. The applicant would be able to submit another application free of charge if done within a certain timeframe.

In response to a query from Councillor Williams, the Planning Solicitor advised that a decision which went against the advice of a statutory consultee, which was regarded as an expert and independent of the Council and the applicant, would be more open to challenge. Given that the Planning Officer had come to a reasoned recommendation on the application, it was for the Committee to explain why it disagreed with this recommendation.

It was moved by Councillor T A Bond and duly seconded that Application No DOV/20/00304 be APPROVED on the grounds that: (i) The installation of mirrors on the driveway would overcome visibility problems; (ii) The visibility splay to the north would not cross private land; and (iii) The application was acceptable in all other respects.

On being put to the vote, the motion was LOST.

It was moved by Councillor E A Biggs, duly seconded and

RESOLVED: (a) That Application No DOV/20/00304 be REFUSED on the grounds that the proposed development is unable to secure or provide suitable visibility splays to serve the development and, as a result, the proposed access to the site would not achieve a safe or suitable means of access for all users, contrary to Paragraph 108 of the National Planning Policy Framework.

(b) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary wording in line with the recommendations and as resolved by the Planning Committee.

67 APPLICATION NO DOV/20/00566 - DELFBRIDGE MANOR, 10 DOVER ROAD, SANDWICH

The Committee viewed plans and photographs of the application site. The Planning Officer advised that planning permission was sought for the erection of four semi-detached and four terraced dwellings, along with a new access and parking. As a correction to paragraph 2.19 of the report, she advised that Unit 1 would also have one window at ground, first and second floor levels. However, due to the separation distance and planting surrounding the site, this was considered unlikely to result in undue harm to privacy. The site had been subject to a number of previous applications, most recently in 2019 when permission had been granted for the same number of dwellings. The principal difference between the 2019 proposal and the current scheme was that the width of the dwellings had been increased and the depth decreased. In addition, the siting of the dwellings had been amended to

address previous concerns about the loss of trees. Whilst the site was outside the settlement confines, it was in a sustainable location and the proposal accorded with Core Strategy Policies DM11, 15 and 16 and the National Planning Policy Framework (NPPF). It was also relevant that the 2019 planning permission was extant and could therefore be implemented. Recognising the 'tilted balance' approach set out in the NPPF, approval was recommended.

In response to a query from Councillor Williams, the Planning Officer advised that the private road which gave access to the rear of the site was owned by Network Rail with whom the applicant would need to discuss access arrangements. In clarification, she advised that there was currently one parking space for each flat in Delfbridge Manor. The scheme proposed one space for each house, as well as three visitor spaces and a disabled parking space at the rear. Councillor O C de R Richardson referred to recent government announcements regarding water efficiency, the use of renewable and low energy technologies, etc, and requested that conditions be added to support these. The Development Management Team Leader advised that these were important policy matters which the Local Plan review process was presently exploring. However, until such time as the draft Local Plan had been out to consultation, it carried limited weight and the imposition of such conditions could be open to challenge. In contrast, the NPPF referred to electric vehicle charging points which meant that the infrastructure to support their installation could be conditioned.

RESOLVED: (a) That Application No DOV/20/00566 be APPROVED subject to the following conditions:

- (i) Standard time condition;
- (ii) List of approved plans;
- (iii) Samples of materials;
- (iv) Details of soft and hard landscaping (including boundary treatments) and schedule of planting;
- (v) Development shall be carried out in such a manner as to avoid damage to the existing trees, their root systems and other planting;
- (vi) Provision and retention of refuse and bicycle storage;
- (vii) Provision and retention of vehicle access and parking space and restriction of access to the rear of the site to the user of the designated disabled parking space only;
- (viii) Submission of a construction management plan;
- (ix) Details of surface water disposal;
- (x) Details of foul sewerage disposal;
- (xi) Programme of archaeological work;
- (xii) Cables for electric vehicle charging points;



- (xiii) Removal of permitted development rights for Classes B and C of Schedule 2, Part 1 of GPDO;
- (xiv) No vehicle hardstandings shall be created within front gardens to prevent use of the access by vehicles.

(b) That powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

68 PLANNING FEES AND CHARGES 2021/22

The Development Management Team Leader presented the report, advising that Appendix 5.3 previously circulated was incorrect and did not reflect an increase of 40% in pre-application advice fees. In response to a query from Councillor Bates, the Development Management Team Leader undertook to respond outside the meeting on prior approval charges and whether these applied to public houses.

RESOLVED: That the report be noted.

69 APPEALS AND INFORMAL HEARINGS

The Committee noted that there was no information to receive regarding appeals and informal hearings.

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

The Committee noted that no action had been taken.

The meeting ended at 7.34 pm.

DOVER DISTRICT COUNCIL

REPORT OF THE HEAD OF PLANNING, REGENERATION AND DEVELOPMENT

PLANNING COMMITTEE – 17 DECEMBER 2020

**CONSIDERATION OF THE FOLLOWING ITEMS HAS BEEN  
DEFERRED AT PREVIOUS MEETINGS**

Members of the Planning Committee are asked to note that the following application(s) have been deferred at previous meetings. Unless specified, these applications are not for determination at the meeting since the reasons for their deferral have not yet been resolved.

- 1. DOV/19/01260**      **Outline application for the erection of up to 14 dwellings (appearance, landscaping and scale to be reserved) – Land off Church Lane, Deal (Agenda Item 7 of 3 September 2020)**

**Background Papers:**

Unless otherwise stated, the appropriate application file, the reference of which is stated.

**LOIS JARRETT**

Head of Planning, Regeneration and Development

The Officer to whom reference should be made concerning inspection of the background papers is Alice Fey, Planning Support and Land Charges Manager, Planning Department, Council Offices, White Cliffs Business Park, Dover (Tel: 01304 872468).



## Remote Meetings

### Planning Committee

The Council Offices will be closed during a remote meeting and it is not possible for members of the public to physically “attend” a remote meeting.

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 have changed the basis of the public’s legal right to attend meetings. This means the public now has the right to hear Councillors attending the remote committee meeting that would normally be open to the public to attend in person. It is the intention of Dover District Council to also offer the opportunity for members of the public to view remote meetings where possible.

#### Joining a Remote Meeting

To join a remote meeting, you will need to join via the link on the Council’s website. This can be accessed via the agenda page for each meeting. The Council is using Teams Live Events (a Microsoft Product) for its remote meetings and you will be taken to the meeting by clicking on the link.

The best way to view the remote meeting is through a laptop or desktop computer. However, you should also be able to view through a smartphone or tablet device. You will need internet access to do this.

#### Public Speaking

**In accordance with Paragraph 9 of the Council’s Protocol for Public Speaking at Planning Committee, the Chairman has altered the public speaking procedure to allow written statements (of no more than 500 words) to be submitted in lieu of speaking.**

The procedure for registering to speak itself remains unchanged. You must request to speak in writing by email to [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk) or by means of the form that can be found on the Council’s website at <https://www.dover.gov.uk/Planning/Planning-Applications/Making-Applications/Speaking-at-Planning-Committee.aspx>

**In all cases, public speaking requests must be received by no later than 5pm on the second working day prior to the meeting.**

Registration will be on a first-come, first-served basis. **If you have been successful in registering to speak, you will be contacted by a member of the Democratic Services team. If successfully registered, you must submit your written statement (of no more than 500 words) by email to [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk) by 10.00am on the day of the remote meeting.**

Registering to speak at a remote meeting confers the right to submit a written statement which will be read out to the remote meeting by an Officer (who is not a member of the Planning Department) on behalf of the speaker. Subject to normal public speaking procedures and the Chairman's discretion, there will be one speech in support of, and one speech against, an item for decision.

In submitting their statement, each speaker accepts that they remain fully responsible for its contents. If any defamatory, insulting, personal or confidential information, etc. is contained in any speech received from any speaker, and/or read to the remote meeting by an Officer, each speaker accepts full responsibility for all consequences thereof and agrees to indemnify the Officer and the Council accordingly.

### Feedback

If you have any feedback on the Council's remote meeting arrangements, please let us know at [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk)

## **APPLICATIONS WHICH MAY BE SUBJECT TO PUBLIC SPEAKING**

### **The Reports**

The file reference number, a description of the proposal and its location are identified under a) of each separate item. The relevant planning policies and guidance and the previous planning history of the site are summarised at c) and d) respectively.

The views of third parties are set out at e); the details of the application and an appraisal of the proposal are set out at f) and each item concludes with a recommendation at g).

**Additional information received prior to the meeting will be reported verbally. In some circumstances this may lead to a change in the recommendation.**

Details of the abbreviated standard conditions, reasons for refusal and informatives may be obtained from the Planning Support Team Supervisor (Tel: 01304 872468).

It should be noted, in respect of points raised by third parties in support of or objecting to applications, that they are incorporated in this report only if they concern material planning considerations.

Each item is accompanied by a plan (for identification purposes only) showing the location of the site and the Ordnance Survey Map reference.

### **Site Visits**

All requests for site visits will be considered on their merits having regard to the likely usefulness to the Committee in reaching a decision.

The following criteria will be used to determine usefulness:

- The matter can only be safely determined after information has been acquired directly from inspecting this site;
- There is a need to further involve the public in the decision-making process as a result of substantial local interest, based on material planning considerations, in the proposals;
- The comments of the applicant or an objector cannot be adequately expressed in writing because of age, infirmity or illiteracy.

The reasons for holding a Committee site visit must be included in the minutes.

### **Background Papers**

Unless otherwise stated, the background papers will be the appropriate file in respect of each application, save any document which discloses exempt information within the meaning of the Local Government (Access to Information) Act 1985.

The Officer to whom reference should be made concerning inspection of the background papers is Alice Fey, Planning Support Team Supervisor, Planning Department, Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ (Tel: 01304 872468).

## **IMPORTANT**

### **The Committee should have regard to the following preamble during its consideration of all applications on this agenda**

1. Section 70(2) of the Town and Country Planning Act 1990 requires that, in dealing with an application for planning permission, the local planning authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that: 'If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.
3. Planning applications which are in accordance with the relevant policies in the Development Plan should be allowed and applications which are not in accordance with those policies should not be allowed unless material considerations justify granting of planning permission. In deciding such applications, it should always be taken into account whether the proposed development would cause demonstrable harm to interests of acknowledged importance. In all cases where the Development Plan is relevant, it will be necessary to decide whether the proposal is in accordance with the Plan and then to take into account material considerations.
4. In effect, the following approach should be adopted in determining planning applications:
  - (a) if the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan;
  - (b) where there are other material considerations, the Development Plan should be taken as the starting point and the other material considerations should be weighed in reaching a decision;
  - (c) where there are no relevant policies in the Development Plan, the planning application should be determined on its merits in the light of all material considerations; and
  - (d) exceptionally, a development proposal which departs from the Development Plan may be permitted because the contribution of that proposal to some material, local or national need or objective is so significant that it outweighs what the Development Plan says about it.
5. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in considering planning applications for development affecting a listed building or its setting, special regard shall be had to the desirability of preserving the building, its setting or any features of special architectural or historical interest which it possesses. Section 72 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas when considering any applications affecting land or buildings within them. Section 16 requires that, when considering applications for listed building consent, special regard shall be had to the desirability of preserving the listed building, its setting, or features of special architectural or historic interest which it has.
6. Section 38(6) of the 2004 Act does not apply to the determination of applications for advertisement consent, listed building consent or conservation area consent. Applications for advertisement consent can be controlled only in the interests of amenity and public safety. However, regard must be had to policies in the Development Plan (as material considerations) when making such determinations.

### **The Development Plan**

7. The Development Plan in Dover District is comprised of:

Dover District Core Strategy 2010  
Dover District Land Allocations Local Plan 2015  
Dover District Local Plan 2002 (saved policies)  
Worth Neighbourhood Development Plan (2015)  
Kent Minerals and Waste Local Plan 2016

## Human Rights Act 1998

During the processing of all applications and other items and the subsequent preparation of reports and recommendations on this agenda, consideration has been given to the implications of the Human Rights Act 1998 in relation to both applicants and other parties and whether there would be any undue interference in the Convention rights of any person affected by the recommended decision.

The key articles are:-

Article 8 - Right to respect for private and family life, home and correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol - Right of the individual to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Account may also be taken of:-

Article 6 - Right to a fair trial and public trial within a reasonable time.

Article 10 - Right to free expression.

Article 14 - Prohibition of discrimination.

The Committee needs to bear in mind that its decision may interfere with the rights of particular parties, particularly under Article 8 and Article 1 of the First Protocol. The decision should be a balanced one and taken in the wider public interest, as reflected also in planning policies and other material considerations.

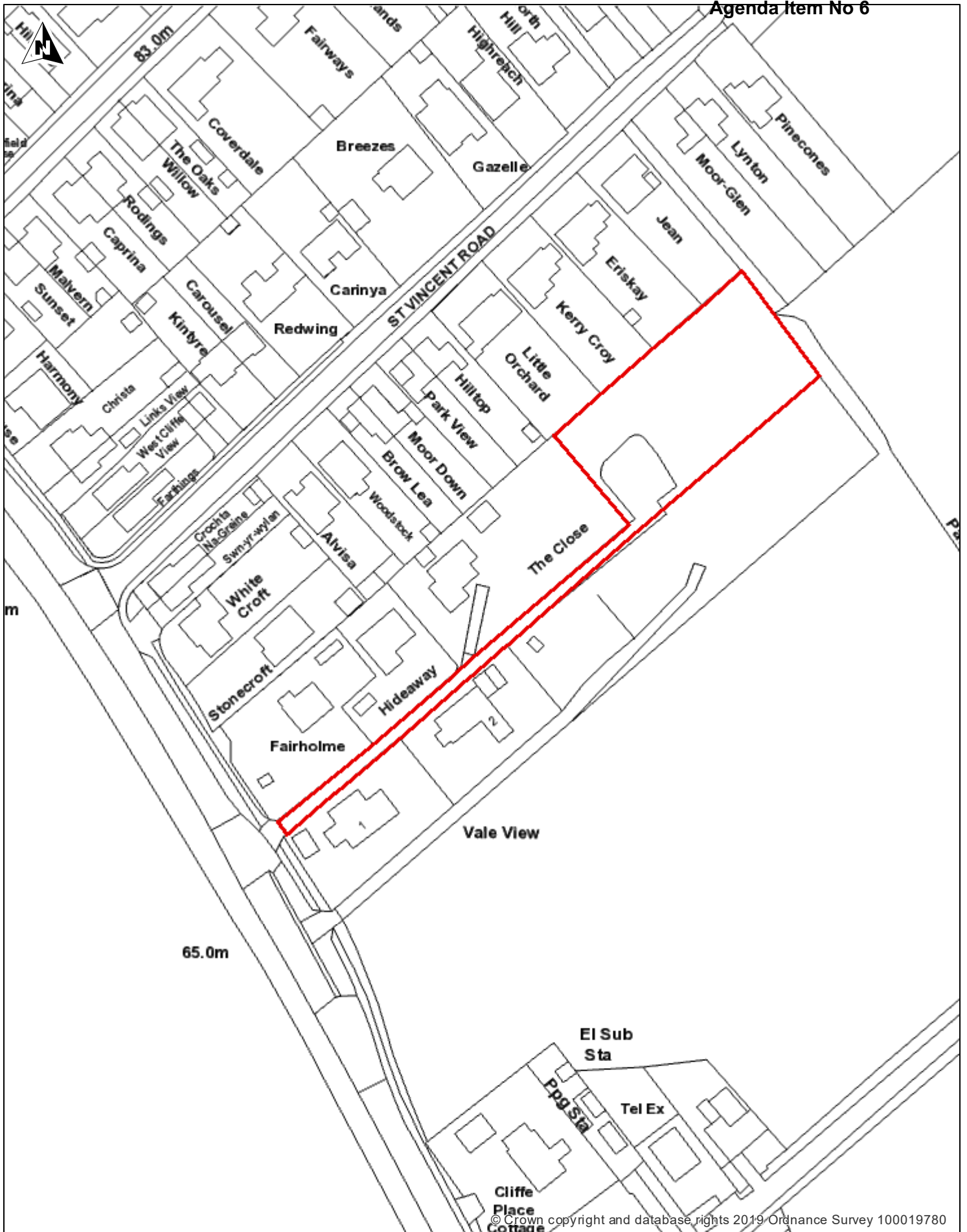
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## PUBLIC SPEAKING AT PLANNING COMMITTEE

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1. The scheme for public speaking at Planning Committee only concerns matters relating to the determination of individual applications for planning permission contained in the Planning Committee agenda and not to other matters such as Tree Preservation Orders or Enforcement.
2. The scheme for public speaking will apply at each meeting where an individual application for planning permission is considered by the Planning Committee.
3. Any person wishing to speak at the Planning Committee should submit a written request using this form and indicate clearly whether the speaker is in favour of, or opposed to, the planning application.
4. The form must be returned to Democratic Support no later than two working days prior to the meeting of the Planning Committee.
5. Speaking opportunities will be allocated on a first come, first served basis but with the applicant being given first chance of supporting the scheme. Applicants or agents will be notified of requests to speak. Third parties who have applied to speak will be notified of other requests only when these directly affect their application to speak. The names, addresses and telephone numbers of people who wish to speak may be given to other people who share their views and have expressed a wish to address the Committee. The identified speaker may defer to another at the discretion of the Chairman of the Committee.
6. One person will be allowed to speak in favour of, and one person allowed to speak against, each application. The maximum time limit will be three minutes per speaker. This does not affect a person's right to speak at a site visit if the Committee decides one should be held.
7. Public speakers will not be permitted to distribute photographs or written documents at the Committee meeting.
8. The procedure to be followed when members of the public address the Committee will be as follows:
  - (a) Chairman introduces item.
  - (b) Planning Officer updates as appropriate.
  - (c) Chairman invites the member of the public and Ward Councillor(s) to speak, with the applicant or supporter last.
  - (d) Planning Officer clarifies as appropriate.
  - (e) Committee debates the application.
  - (f) The vote is taken.
9. In addition to the arrangements outlined in paragraph 6 above, District Councillors who are not members of the Committee may be permitted to address the Planning Committee for three minutes in relation to planning applications in their Ward. This is subject to giving formal notice of not less than two working days and advising whether they are for or against the proposals. In the interests of balance, a further three minutes' representation on the contrary point of view will be extended to the identified or an additional speaker. If other District Councillors wish to speak, having given similar notice and with the agreement of the Chairman, this opportunity will be further extended as appropriate.
10. Agenda items will be taken in the order listed.
11. The Chairman may, in exceptional circumstances, alter or amend this procedure as deemed necessary.





DOV/20/01076  
Land North East Of The Close  
Station Road  
St Margarets At Cliffe

Dover District Council  
Honeywood Close  
White Cliffs Business Park  
Whitfield  
DOVER  
CT16 3PJ



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

a) **DOV/20/01076 – Erection of a detached dwelling, double garage and associated parking - Land North East of The Close Nursery, Station Road, St Margaret’s-at-Cliffe**

Reason for Report: Number of contrary responses (31 in support).

b) **Summary of Recommendation**

Planning permission be refused.

c) **Planning Policy and Guidance**

Dover District Core Strategy (CS) 2010

- CP1 – Settlement hierarchy
- DM1 - Development within the built confines.
- DM11 – Travel Demand
- DM15 – Countryside
- DM16 – Landscape

National Planning Policy Framework (NPPF) 2019

- Paragraph 8 - The three objectives of sustainability.
- Paragraph 11 - Presumption in favour of sustainable development.
- Paragraph 124 – Good design is a key aspect of sustainable development
- Paragraph 127 - Achieving well-designed places.
- Paragraph 130 - Permission should be refused for poor design.
- Paragraph 131 – Great weight to be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area
- Paragraph 170 - Development to contribute to and enhance the natural environment.
- Paragraph 172 - Great weight given to conserve and enhance landscape and scenic beauty in Areas of Outstanding Natural Beauty (AONB).
- Paragraph 175 - Protection of habitats.

Kent Downs AONB Management Plan

This Plan contains landform and landscape character policies, which seek the protection, conservation and enhancement of special characteristics and qualities, natural beauty and landscape character of the Kent Downs AONB.

National Design Guide 2019

Requires context to be taken into account in the design of new development

Draft Local Plan

The Council is in the final phase of approving the draft Dover District Local Plan for public consultation. This is the start of a process for developing a new local plan for the district, replacing in due course, the Core Strategy and Land Allocations Local Plan. Once the draft plan is approved for consultation, it will be a material planning consideration for the determination of planning applications, although importantly it will have little weight at this stage. As the plan progresses, it will be possible to afford

greater weight to policies or otherwise, commensurate with the degree of support/objection raised in relation to them during the consultation process. A final version of the Plan will be submitted to the Planning Inspectorate for examination to determine if the Plan can progress to adoption and, if so, the degree to which final modifications will/will not be required.

At the time of preparing this report, the approval of the Draft Plan for consultation was imminent. It's possible that approval will be made prior to this meeting of the Planning Committee, in which case the policies of the draft Plan will be a material consideration in the determination of the application. Should this be the case, and for the purposes of this report, it's considered that relevant policies in the draft Plan have little weight at this stage and do not materially affect the assessment and recommendation herein including (where appropriate) the framing of conditions or reasons for refusal.

d) **Relevant Planning History**

DOV/10/00823 – refused for 1 dwelling on the land, on 4 grounds ( principle, visual impact, access and lack of need).

DOV/16/00711 – refused for 2 dwellings on the land, on 4 grounds of refusal (Outside the confines and AONB, the use of the private road and absence of preliminary Eco Survey and Assessment).

DOV/17/00792 – Refused, for *“Erection of a detached dwelling, detached garage and creation of vehicle turning area”* on the basis of the impact upon the open countryside and AONB and the private access being unsuitable for further residential access.

The subsequent Appeal was refused in June 2019 on the basis that the Appeal Inspector considered the development to be a sporadic form of development that would encroach into the countryside and would suburbanise the site eroding the rural qualities of the area and the AONB. The visual impact of the residential use of the land (such as vehicle movements, garden furniture, domestic cultivation etc) was considered by the Inspector to further add to the suburbanising effect. With regard to highway safety, the Inspector considered that the access would be suitable to serve an additional dwelling.

DOV/20/00086 – Refused *“Erection of a detached dwelling, double garage and creation of parking”* on the basis of the unjustified location of the development outside the settlement confines, within the AONB, and the harm to the intrinsic character and beauty of the area, in particular the landscape and scenic beauty of the AONB.

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

Environmental Health Officer: No objections, providing a condition is imposed to investigate and assess the risk from any land contamination.

East Kent PROW: No objections are raised.

Parish Council: Raises objections as the site is outside the village confines and within the AONB.

Southern Water: Wishes to draw attention to the need to identify the exact location of the foul sewer and to safeguard it during the construction stages and post construction stages of the development.

Kent Archaeology Unit: “It is possible that the construction of the proposed new dwelling will impact upon buried archaeological remains. I therefore recommend that provision is made in any forthcoming planning consent for a programme of archaeological work.” This can be achieved through a planning condition being imposed.

Third Party Reps: 67 responses have been received. There are 36no. responses raising objections and 31no. expressing support. The points raised are summarised below.

Objections -

- contrary to the Development Plan and NPPF
- development outside the village confines and within the AONB
- the access is unsuitable and its additional use would cause damage and be unsafe
- the development would detract from the natural environment
- the design is unsympathetic, underwhelming
- the location of the site is not sustainable
- there are discrepancies and mis-information within the application submission
- previous applications have been refused and their appeals dismissed
- the current proposal is similar to the previous proposals that have been refused and dismissed

Support –

- the proposal would provide a family home
- there is a need for additional housing
- the proposal is a sustainable form of development and eco-friendly
- the proposal would blend well within the surrounding area
- the design is sympathetic and the proposal will enhance the area
- the site is vulnerable to other uses
- the proposal will tidy up the site
- the proposal will lead to investment and employment

f) **1. Site and the Proposal**

1.1 The application site comprises a rectangular parcel of land located to the rear of properties in St Vincent Road (located to the north) and adjacent to a dwelling known as The Close Nursery (located to the west), with access from Station Road along a private drive.

1.2 The application site is open and undeveloped and is situated on the north-western side of the valley, within the Kent Downs AONB. There are open views to the site from the countryside, in particular the site is visible from the nearby Public Rights of Way (PROW) ER28 and ER41. PROW ER28 runs from St Vincent Road, alongside the eastern boundary of the application site and to the other side of the valley where it meets Kingsdown Road. The presence of existing vegetation along the eastern boundary of the site limits the visibility of the site from this section of ER28.

1.3 On the site, an area near to the boundary with The Close Nursery has been exposed/scraped away so that the underlying chalk is visible. There is a manhole cover and a water pipe in this part of the site. The remainder of the site is covered in unmanaged grass and shrubs, with gravelled areas underfoot. The site adjoins a further rectangular area located to the south. There is no boundary enclosure delineating the two areas of land, but this parcel is more overgrown and less managed, and could be

served by the private access. It used to contain some dilapidated touring caravans, but these have now gone. Along the southern boundary of this adjoining site there is an established hedgerow.

- 1.4 The Appeal Inspector described the site as better related to its rural surroundings to which the site makes a positive contribution.
- 1.5 Land to the north and west of the site falls within the village confines of St Margaret's. Land to the south and east falls within the open countryside and the Kent Downs AONB. The centre of the village is located further south, on the other side of the valley. A footway exists on the east side of Station Road to facilitate pedestrian access to the centre of the village.
- 1.6 The proposal seeks the erection of a detached two storey dwelling that would have its lower ground floor sunken into the land, such that only its upper floor would be readily visible above the existing topography of the land. The dwelling would have an L-shaped form, with an enclosed sunken courtyard and it would be located slightly west of the centre of the site. It is designed with a flat roof on one section and a gently sloping monopitched roof on the other. Both roofs will have a sedum covering.
- 1.7 A detached garage of similar flat roof design and external appearance is proposed adjacent to the dwelling. The garage is served by a proposed gravel driveway and turning area that will lead from the private drive, off Station Road.
- 1.8 The proposed dwelling will accommodate four bedrooms and ancillary rooms on the lower floor and living, dining, study and kitchen areas with ancillary rooms on the upper floor. Access to the sunken courtyard will be from the bedrooms and steps leading from the garden. An 'at grade' main entrance to the dwelling is provided into the upper floor, adjacent to the location of the proposed garage.
- 1.9 A boundary treatment drawing has been submitted indicating where new tree and hedge planting would take place around three sides of the plot, along with part of the site being proposed as natural grassland.
- 1.10 The applicant considers that the design approach to the building and its surroundings addresses the concerns of the previous Appeal Inspector and addresses the more recent reason for refusal of the earlier 2020 application. The changes to the scheme from the recent refused application will be set out later in this report. The building is considered by the applicant to be contemporary in appearance and constitutes an outstanding and innovative design that reflects high standards in architecture, addresses the need for energy efficiency and responds to the on-set of climate change.

## **2. Main Issues**

- Principle of development
- Impact on the character and appearance of the area and AONB
- Other Matters
- Planning Balance

### **Assessment**

#### **Principle of Development**

- 2.1 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 such plans, unless material considerations indicate otherwise.
- 2.2 Policy DM1 states that development will not be permitted outside 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 outside the defined settlement confines, is not supported by other development plan policies and is not ancillary to existing development or uses. As such, the application is contrary to Policy DM1.
- 2.3 Policy DM11 seeks to resist development outside the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. The site is located outside the settlement confines. In view of the distance of the site from the centre of the village and its amenities/facilities, it is most likely that the occupants of the development would be reliant on the use of the car to travel in order to reach all their necessary day to day facilities and services. The development is not justified by other development plan policies. As such, the development is contrary to Policy DM11.
- 2.4 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 its exceptions criteria. The degree to which the development affects the character or appearance of the countryside will be considered further in this report; however, the development does not meet any of the exceptions criteria set out in the Policy.
- 2.5 For the above reasons, the development in principle, is contrary to Policies DM1 and DM11 and potentially contrary to Policy DM15 of the Core Strategy.
- 2.6 Whilst the development is contrary to Policies DM1, DM11 and potentially Policy DM15 and notwithstanding the primacy of the development plan, paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year housing land supply or where the LPA has delivered less than 75% of the Housing Delivery Test requirement over the previous three years) permission 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 (known as the 'tilted balance') or where specific policies in the NPPF indicate that development should be restricted.
- 2.7 Having regard to the most recent Annual Monitoring Report, the Council is currently able to demonstrate a five-year supply of housing. The Council has not met the Housing Delivery Test, achieving 92%. Whilst this has been taken into account, it does not trigger the paragraph 11 'tilted balance', which is only engaged when housing delivery falls below 75%. It is, however, necessary to consider whether the "most important policies for determining the application" are out of date.
- 2.8 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 629 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 less weight.

- 2.9 With regard to this particular application, the focus of the NPPF is to locate new housing development within suitably sustainable locations. Paragraphs 78 and 79 of the NPPF, seek to locate housing where it will enhance or maintain the vitality of rural communities and to avoid the development of isolated homes in the countryside. As such, the location of the proposed development would enable the vitality of the rural settlement to be supported.
- 2.10 Policy DM11 seeks to locate travel generating development within settlement confines and to restrict development that would generate high levels of travel outside confines. This blanket approach to resist development which is outside 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 fact that the future occupiers of the proposed dwelling would be able to walk along a footway into the centre of the village, which is some 600m from the site, and there is a reasonable range of amenities and facilities within walking and cycling distance, it is considered that there are reasonable alternatives to travel available to the future occupiers. The blanket 'in principle' objection to the scheme as a result of the restrictive wording of Policy DM11 renders the policy out-of-date with the NPPF which reduces the weight that can be afforded to this Policy. In view of the realistic alternatives to the use of the private car to travel into the village, it is considered that there is no overriding conflict with the NPPF.
- 2.11 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 as a blanket approach is more stringent an approach than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development. There is therefore some tension between this Policy and the NPPF. In this instance, the site's appearance within the open countryside does afford a contribution to its intrinsic beauty and character. Consequently, it is concluded that Policy DM15 should attract significant weight for the reasons set out in the section below.
- 2.12 It is considered that Policies DM1, DM11 and DM15 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. Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date. Having considered the development plan in the round, it is considered that the 'tilted balance' as set out in paragraph 11 of the NPPF should normally be engaged and as such the application should be assessed in the context of granting planning permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 2.13 In the footnote to paragraph 11i, the NPPF states that those policies referred to are those in the NPPF relating to and including ...an AONB. This means, that if it is considered that there are clear reasons for refusing the development proposed in this application by reason of its impact upon the AONB, then the 'tilted balance' towards granting planning permission should not be engaged.
- 2.14 An assessment of the impact upon the AONB and the implications of this for the how the application should be 'weighed' is made later in this report.
- 2.15 As part of the assessment, regard needs to be had of the Appeal Inspector's decision (dated 4 June 2019) and the Council's more recent decision (dated 22 May 2020), which are material considerations in the determination of this application.

#### Impact Upon the Character and Appearance of the Area and AONB

- 2.16 Not an issue of principle, but relating to the consideration of impact of the proposal, is the need for the character and appearance of the countryside to be protected from harm (Policy DM15) and the landscape character to be safeguarded from harm, in accordance with Policy DM16, and for *"great weight to be given to conserving and enhancing landscape and scenic beauty in AONB'S, which have the highest status of protection in relation to these issues"* as set out in in paragraph 172 of the NPPF.
- 2.17 The wider landscape includes dry valleys on the underlying chalk geology and the site and its neighbours on or near to a ridge and hence is visible from the south, at some distance, but particularly at close quarters from the footpaths. The site does not however appear as part of the open agricultural landscape, due to its visual condition and boundary treatment. Notwithstanding, the Appeal Inspector considered that although the previously proposed building would not represent an isolated dwelling in the countryside given the distance from the surrounding dwellings, he still considered that such a sporadic form of development on this site would encroach into the countryside and erode the rural qualities of the area and AONB. The impact would be further exacerbated by the residential use of the land – i.e. how the site would be used and how it would appear.
- 2.18 The last Appeal scheme proposed a detached single storey dwelling (bungalow) and garage on the land, with pitched roofs. The footprint of the buildings covered a slightly greater site area than the recent application proposal (20/00086) and the building lacked any particular design merit.
- 2.19 The recent application proposal (20/00086) paid greater attention to design and proposed a contemporary design approach to the building, seeking to nestle the building into the topography of the land, and thus minimising its visual impact. The submission proposed some energy efficient measures to be



incorporated into the building and the use of the land, but the submission lacked detail.

- 2.20 The current proposal is in essence for the same development as the previously refused scheme, with the one exception that two panels of a 'green' wall are proposed on the south facing elevation of the main building.
- 2.21 As a whole, the current proposal also seeks to pay greater attention and detail to the land around the proposed development and offers tree and hedgerow planting around three boundaries of the site and the planting of natural grassland on part of the garden.
- 2.22 As a precautionary note, it is important in determining this current application to take proper account of the previous decision(s) of the Council, as material planning considerations, as the proposal is covering exactly the same issues as before. In this case, the proposed scale, design and appearance, layout, access, built form and site coverage are the same as the previous scheme, save for the application of a 'green wall' on one of the elevations of the building. It is considered that a green wall and planting around the boundaries of the site could have been requirements of a planning condition imposed on the previous decision if the Planning Committee had been minded to approve - to ensure that the development had an appropriate landscaped setting or softening impact. As such, it is considered by officers that these proposed 'planting' additions from the previous application do not fundamentally change the determination of the key issues.
- 2.23 Taking into account the Appeal decision and the Council's previous decisions, the proposed development would still be seen from the PROWs and it would comprise a visual intrusion into the landscape and lead to an encroachment of the built form into a sensitive part of the AONB and open countryside. The building footprint and hard surfacing around the buildings would take up a significant extent of the site, and the site's visual domestication and residential use would remain as obvious incursions into the countryside. These elements would also not be able to be suitably screened, in any event, due to the topography of the land.
- 2.24 It is also considered that if permitted, the grant of permission would place greater pressure on allowing development on the adjoining rectangular site, because at the moment there is no physical definition/boundary between the two sites and they share the same access. However, that potential impact would be subject of further assessment.
- 2.25 It is concluded that the proposal would result in material harm to the character and appearance of the area and the AONB. Therefore, it would be in conflict with Policies DM1, DM15 and DM16 of the Core Strategy, in conflict with Paragraphs 124, 127, 130, 170 and 172 of the NPPF and in conflict with the policy objectives of the Kent Downs AONB Management Plan – which seek to ensure that developments do not adversely affect the character and appearance of an area and maintain or enhance the natural beauty of the AONB, which is afforded great weight to its protection.

#### Other Matters

- 2.26 The applicant has also referred to a more harmful impact on the AONB from the residential development of a site close-by which has been allocated within the LALP 2015, as Site LA44 – land at the junction of Station Road/Nelson

Park. In response to this point, LA44 is a housing allocation, but also there was a change to the Proposals Map so that the land could be included within the settlement confines. The assumption being that although a site specific policy, development on the site was considered to be appropriate in principle (taking into account DM1 and DM11). Development that has subsequently taken place on that plot of land assimilates well with the street scene and does not appear as a sporadic form of development unrelated to the existing pattern of development. Notwithstanding, the merits of the current application need to be considered on their own and not combined with the merits of an alternative proposal, elsewhere.

- 2.27 The Appeal Inspector did not consider that an additional dwelling served by the existing access would give rise to harm to highway safety. The current proposal does not give rise to any material change in circumstances and as such, there is no objection to the proposal on highway grounds.
- 2.28 The site is located within the area where the development is likely to have an effect on the Thanet Coast and Sandwich Bay Special Protection Area (SPA). Applying a pre-cautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within the district, to have an adverse effect on the integrity of the protected SPA and Ramsar sites. Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, pre-dominantly by dog-walking, to the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.29 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites. For proposed housing developments in excess of 14 dwellings the SPA requires the applicant to contribute to the Strategy in accordance with a published schedule. This mitigation comprises several elements, including monitoring and wardening.
- 2.30 Having regard to the proposed mitigation measures and the level of contribution currently acquired from larger developments, it is considered that the proposal would not have an adverse effect on the integrity of the SPA and Ramsar sites. The mitigation measures will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.
- 2.31 Having taken into account the Environmental Impact Assessment (EIA) Regulations 2017, and given the nature, scale and location of the proposal, the impacts of the development would not be significant in terms of the receiving environment and existing land uses. Environmental impacts in relation to the nearest designated sensitive areas are unlikely to be significant. Consequently, while there may be some impact on the surrounding area as a result of this development, it would not be of a scale and nature likely to result in significant environmental impact. EIA is therefore not required.

#### Planning Balance

- 2.32 Significant weight is applied to the requirements of the Development Plan and NPPF policies and the materiality of the recent decisions by the Appeal

Inspector (in June 2019) and the Council (in May 2020). As harm to the landscape and scenic beauty of the AONB has been identified in this Report, it is considered that, by reason of the footnote in Paragraph 11i of the NPPF, the 'tilted balance' towards granting planning permission is not engaged and should not be applied.

- 2.33 The design of the proposal is contemporary and seeks to assimilate the building and its associated residential use into the topography of the land and the surrounding landscape. With regard to design, the NPPF places great weight on outstanding or innovative design which promotes high levels of sustainability, or helps raise the standard of design more generally in an area – as long as it fits in with the overall form and layout of its surroundings.
- 2.34 It is considered that although the building is well-designed, it is not of a standard that makes it outstanding or innovative. Although the building will raise the standard of design more generally in this area, it is considered that the building would not be in keeping with the form and layout of its surroundings and neither would it overcome the degree of harm identified to the intrinsic, open character and beauty of the countryside and the landscape and scenic beauty of the AONB.
- 2.35 To be weighed in the planning balance are the benefits of the provision of new housing against the harm arising from the development and specifically the conflict with the development plan, overall travel patterns and the harm to the character and appearance of the area and AONB.
- 2.36 The scheme would provide an additional family sized dwelling which would be a modest public social benefit. The proposal would also provide economic benefits in the form of construction jobs as well as the benefits of additional residents near the village centre and their support for local facilities and services.
- 2.37 Whilst some weight should be afforded to the quality of the design, and the economic and social benefits arising from the proposal, it is considered that these do not overcome the objections to the scheme arising from the impact of the development on the countryside and AONB.

### 3. **Conclusion**

- 3.1 The location of the development and key aspects of the proposal are in conflict with development plan policies and the NPPF. Issues, other than those main issues assessed above, that were raised through the response to the consultation of the application have been considered. These do not affect the assessment of the planning balance or the conclusions of this Report.
- 3.2 Under this application, the proposed development has not materially changed from the previous schemes that have been refused. Consequently, the key issues that have previously been considered and subsequently determined have not changed. As such, it is considered that the proposal is contrary to the Development Plan and the NPPF and there are very limited changes in circumstance that should lead to a different conclusion on the merits of this application.

### g) **Recommendation**

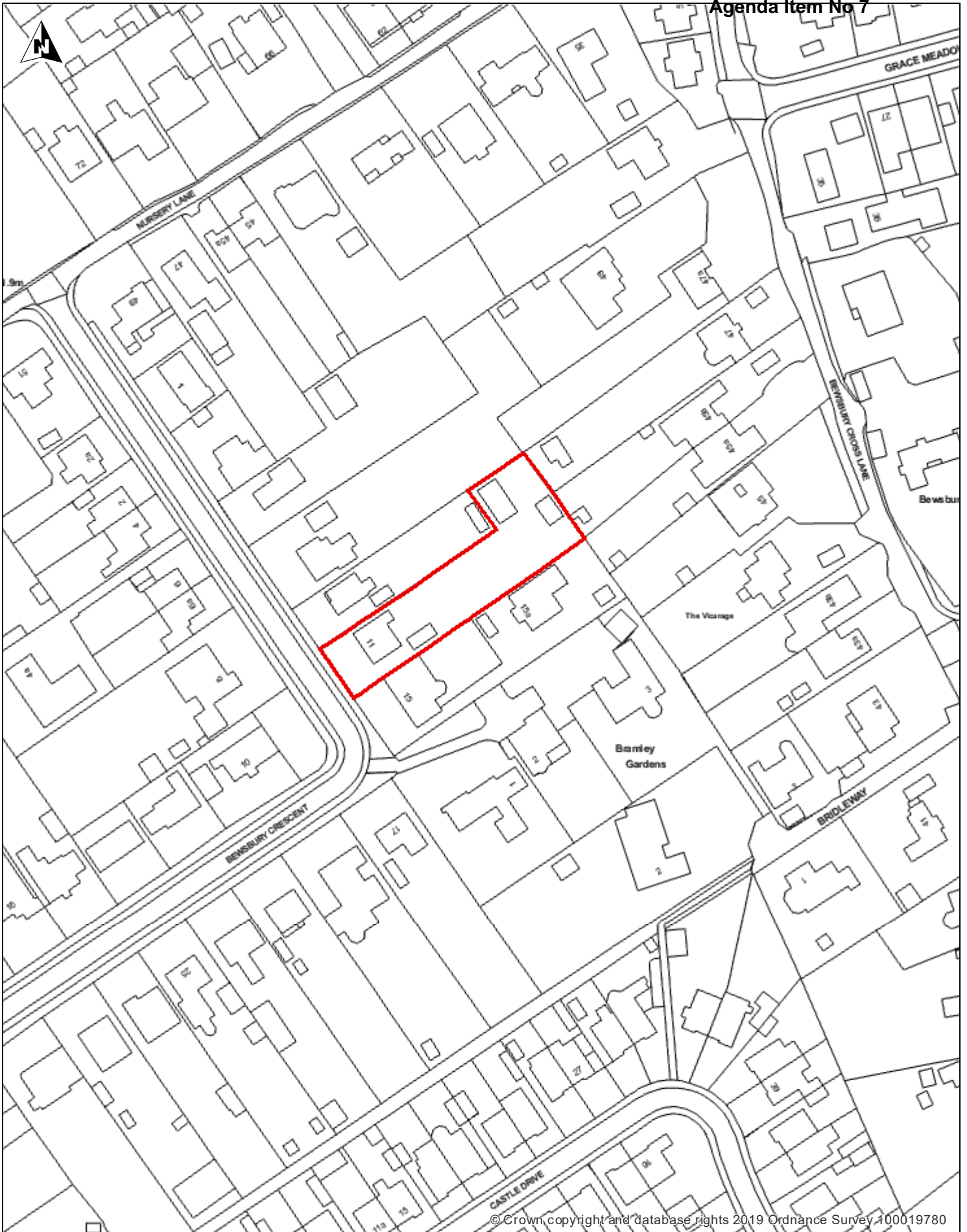
I Planning Permission BE REFUSED for the following reason:

The proposed development is unjustified and would be located outside the identified settlement confines of St Margaret's at Cliffe, within an Area of Outstanding Natural Beauty. By reason of the siting, design, prominence, location, the operational development proposed on the site and the site's residential use, the proposal would visually and physically encroach into the open countryside and cause harm to the intrinsic character and beauty of the area, and in particular the landscape and scenic beauty of the Area of Outstanding Natural Beauty, contrary to Policies DM1, DM15 and DM16 of the Dover District Core Strategy and Paragraphs 124, 127, 130, 170 and 172 of the National Planning Policy Framework and the aims and objectives of policies SD1 and SD2 of the Kent Downs AONB Management Plan.

- II Powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary wording in line with the recommendation and as resolved by the Planning Committee.

Case Officer

Vic Hester



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DOV/20/01063

Morfield House, 11 Bewsbury Crescent  
Whitfield  
CT16 3EU

Dover District Council  
Honeywood Close  
White Cliffs Business Park  
Whitfield  
DOVER  
CT16 3PJ



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

- a) **DOV/20/01063 – Erection of a dwelling and detached garage with associated access - Morfield House, 11 Bewsbury Crescent, Whitfield**

Reason for report – Number of contrary views (6 + Whitfield Parish Council)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010)

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM11 – Location of Development and Managing Travel Demand

DM13 – Parking Provision

National Planning Policy Framework (NPPF) (2019)

Paragraph 2 states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. The objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Paragraph 8 identifies the three overarching objectives of the planning system in relation to the aim of achieving sustainable development; an economic, social and environmental objective.

Paragraph 11 states that decision making should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up to date development plan or where there are no relevant development plan policies or the policies are out of date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole.

Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and landscaping, are sympathetic to local character and

history and create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users.

National Planning Practice Guidance

National Design Guide (2019)

Kent Design Guide (2005)

The guide provides criteria and advice on providing well designed development, emphasising that context should form part of the decision making around design.

SPG4 Kent Vehicle Parking Standards

Draft Local Plan

The Council is in the final phase of approving the draft Dover District Local Plan for public consultation. This is the start of a process for developing a new local plan for the district, replacing in due course, the Core Strategy and Land Allocations Local Plan. Once the draft plan is approved for consultation, it will be a material planning consideration for the determination of planning applications, although importantly it will have little weight at this stage. As the plan progresses, it will be possible to afford greater weight to policies or otherwise, commensurate with the degree of support/objection raised in relation to them during the consultation process. A final version of the Plan will be submitted to the Planning Inspectorate for examination to determine if the Plan can progress to adoption and, if so, the degree to which final modifications will/will not be required.

At the time of preparing this report, the approval of the Draft Plan for consultation was imminent. It's possible that approval will be made prior to this meeting of the Planning Committee, in which case the policies of the draft Plan will be a material consideration in the determination of the application. Should this be the case, and for the purposes of this report, it's considered that relevant policies in the draft Plan have little weight at this stage and do not materially affect the assessment and recommendation herein including (where appropriate) the framing of conditions or reasons for refusal.

d) **Relevant Planning History**

Numerous applications including:

DOV/19/00494 – Erection of a two storey rear extension and garage (existing rear extension to be demolished) - Granted

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

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

Whitfield Parish Council – Whitfield Parish Council consider this application to be an over-intensive development of this site. It would be over bearing, intrusive and would also affect the amenity of next door residents and also the residents at the rear of the proposed application. This is a 'back garden development' to which Whitfield Parish Council are strongly opposed. Therefore, Whitfield Parish Council object to this application.

Southern Water – Requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. Advises that it is possible a sewer

now deemed to be public could be crossing the development site and should any sewer be found during construction works, and investigation of the sewer will be required to ascertain its ownership before any further works commence on site (informative to be included in full on decision notice should permission be granted).

#### Public Representations:

6 members of the public have objected to the proposals (as of 7<sup>th</sup> December 2020) and the material considerations are summarised below. Matters such as impact on an individuals' property value, financial intentions of the applicant etc. are non-material considerations and are not included below.

- Object for the same reasons as the previous applications for 17, 19, 21 and 31 Bewsbury Crescent. Had these been accepted more people could be inclined to apply. More are applying in the hope they might be accepted and if they are this will continue. Encourages properties to resubmit previous applications for three and four dwellings.
- Yet another rear garden development in Bewsbury Crescent
- Traffic – increasing traffic in the Crescent (which is being used as a short cut to avoid queues at other junctions)
- Parking – there will be an issue with street parking. Visitors will have to park in the street which will cause issues for pedestrians as vehicles will use the pavement to make room on the road.
- Similar to other refused applications for garden development in Bewsbury Crescent which have been upheld at appeal
- Amenity impact – activity and disturbance from vehicle movements and use of access alongside the living areas of numbers 15 and 15b and no. 11
- Noise (from turning area and use of garden)
- Smell (from proximity of turning area to neighbouring garden)
- Light pollution from the proposed dwelling
- Inadequate space on the plot for the dwelling, turning bay and garage
- Need for housing – 140+ houses at the end of Bewsbury Crescent (Fitzwarin Place). There is no need to support or encourage further rear garden developments in the Crescent. Proposal doubles the housing density of this plot.
- Loss of wildlife habitat
- Impact on character – significantly changes the building line in the Crescent
- If granted, request that a measure is put in place that work using machinery cannot start until after 8am and finish at 5pm, no playing of radio's and loud talking.

#### **f) 1. The Site and the Proposal**

1.1 The application site relates to a detached two storey dwelling located on the northeast side of Bewsbury Crescent. The dwelling has been recently extended to the rear and is finished in white render with tiled combination roof and dark framed windows. The extension built does not appear to be fully in accordance with the approved plans and Enforcement Officers are investigating. The site is flat and to the front (southwest) of the dwelling is a driveway, which runs to the southeast side of the dwelling. The property has a deep, 'L' shaped rear garden and the site measures approximately 15.2m and 26.5m in width and 17m and 71.5m in depth. The site is bounded by No. 9 Bewsbury Crescent to the northwest, No. 7 Bewsbury Crescent to the north, Nos. 15 & 15a Bewsbury Crescent to the southeast, and the rear gardens of Nos. 45b and 47 Bewsbury Cross Lane to the northeast.



- 1.2 Bewsbury Crescent contains a mixture of bungalows, chalet bungalows and two storey dwellings, with the vast majority of properties being detached. The dwellings are generally finished in brick and/or render and there are a range of roof types and orientations. All dwellings are set back from the public highway behind either driveways or front gardens and there is a strong building line. However, a number of dwellings have been constructed in the rear gardens of properties, particularly in the southeastern corner, and along the southeastern side of Bewsbury Crescent. Permission has also been sought for similar back garden development at several properties along the southern side of Bewsbury Crescent (bounded by public bridleway ER74 to the southeast), however these have been refused and some decisions have been dismissed at appeal.
- 1.3 This application seeks permission for the erection of a dwelling and detached garage (to serve No. 11 Bewsbury Crescent), with associated access. The proposed bungalow would be positioned approximately 34m to the northeast of the existing dwelling and would contain three bedrooms (one with en-suite), a bathroom and an open plan kitchen/living/dining room. The dwelling would be 'L' shaped and would measure approximately 14.2m in width and 8.4m in depth. The front (southwest) projection would measure approximately 7.6m in width (including the open porch) and 1.97m in depth. It would have an eaves height of approximately 2.8m and ridge heights of 5.2m and 5m. The bungalow would have a hipped roof finished in grey concrete tiles and would have dark grey windows and doors and would be finished in white render with sections of dark grey weatherboarding.
- 1.4 The proposed garage would measure approximately 6m x 6m and would have a flat roof, approximately 2.4m in height from ground level. It would have a garage door on the southeast elevation and doorway into the new subdivided garden of No. 11 on the southwest elevation. Amended plans were received on 20<sup>th</sup> November 2020 which made no changes to the siting, scale, massing or design of the dwelling, however clarified the heights of existing boundary treatments and showed the location of electric car charging point for the proposed dwelling.

## **2. Main Issues**

- 2.1 The main issues for consideration are:
- The principle of the development
  - The impact on the character and appearance of the area
  - The impact on residential amenity

### **Assessment**

#### **Principle of Development**

- 2.2 The site lies within the settlement confines identified in Policy DM1 and accords with the locational objectives of the NPPF. It is therefore considered that the principle of a replacement dwelling is acceptable in this location, subject to site specific considerations.

#### **Impact on the Character and Appearance of the Street Scene**

- 2.3 The site is located within a predominantly residential area and, as discussed at paragraph 1.2, Bewsbury Crescent contains dwellings of a mix of designs, materials and heights. As such, the character of the street scene is considered to be varied. However, there is a strong building line along Bewsbury Crescent,

and there have been a number of applications within the Crescent to erect dwellings in the rear gardens of properties.

- 2.4 Planning permission has been generally refused for the erection of dwellings to the rear of properties along the southeastern side of Bewsbury Crescent. However, dwellings have been erected in the eastern corner of the crescent, and a detached bungalow has been erected to the rear of No. 15 Bewsbury Crescent, directly to the southwest of the application site.
- 2.5 The proposed dwelling would be a detached single storey bungalow, finished in white render with a grey concrete tiled roof, dark grey windows, dark grey/blue brickwork and sections of dark grey cement weatherboarding. Due to the siting of the dwelling and scale and positioning of dwellings to the west, public views would be largely limited to those from directly in front of the access drive. Nonetheless, the finish of the dwelling in white render and a dark coloured roof and windows would match that of the recently extended and updated No. 11 Bewsbury Crescent and would not be out of place in its immediate context and setting. Consequently, it is considered that the proposed development would preserve the varied character and appearance of the street scene, in accordance with Paragraph 127 of the NPPF.

#### Impact on Residential Amenity

- 2.6 The proposals would be directly visible from a number of surrounding properties and the impact on residential amenity is discussed as follows:

#### 7 Bewsbury Crescent

- 2.7 The site shares its northwest boundary with the garden of this property. Whilst the development would be visible from this dwelling, due to the height and design of the proposed bungalow, as well as separation distance and boundary treatments the development is considered unlikely to result in unacceptable harm to neighbouring amenity in respect of overbearing, overshadowing or loss of privacy, and would accord with the amenity objectives of Paragraph 127 of the NPPF.

#### 9 Bewsbury Crescent

- 2.8 Located to the southwest of the proposed dwelling, this two storey detached dwelling has several windows from which the proposed dwelling would be visible. There would be a separation distance of approximately 36m between the proposed bungalow and rear elevation of this neighbouring property and due to this distance, as well as the single storey height of the proposed dwelling, the development is considered unlikely to result in an unacceptably overbearing impact on neighbouring amenity. Due to the siting of the proposed dwelling and direction of the sun path, the development would be unlikely to result in undue overshadowing or loss of light to the neighbouring property. In respect of privacy, there would be windows and doors at ground floor level only and views of the neighbouring garden would be restricted by the 1.8m close boarded fence forming the garden boundary. Due to this, and the separation distance between the two dwellings, the development is considered unlikely to result in undue harm to neighbouring privacy in accordance with Paragraph 127 of the NPPF. With regard to the proposed garage, due to its siting and scale, as well as the height of the separating boundary treatment, this is considered unlikely to result in

undue harm to neighbouring amenity in respect of overbearing, overshadowing or loss of privacy.

#### 15 Bewsbury Crescent

- 2.9 Located to the southwest of the site, this dwelling has a single storey side projection with four rooflights above (shown from planning history to serve a study, utility and porch), and two windows at first floor level (shown on planning history to serve bathrooms) on the side elevation of the main dwellinghouse. There are a number of windows on the rear elevation from which the proposed dwelling would also be visible. However, due to the siting, scale and separation distance, as well as the design of the proposed bungalow, the development is considered unlikely to result in undue harm to privacy, to have an overbearing impact, or to result in overshadowing to this neighbouring property. The proposed access drive leading to the new dwelling and garage for the existing dwelling would be positioned adjacent to the boundary of No. 15, which is formed by an approximately 2m tall close boarded fence. Although the use of the access would result in some additional noise from vehicle movements, it is considered unlikely that the level of vehicles for a single dwelling and access to a garage (where the primary parking area for No. 11 Bewsbury Crescent is to the front of the existing dwelling), would cause significant harm to amenity. Furthermore, it is considered appropriate to require details of the surface material of the driveway/hardstanding to be submitted as part of a landscaping condition, as use of a bound surface (as opposed to a gravel surface for example) could further reduce the noise generated by the use of the driveway.

#### 15a Bewsbury Crescent

- 2.10 Located to the south of the proposed dwelling, this bungalow (which itself was erected in the rear garden of No. 15), has two windows on the flank (northwest) elevation facing the site. These are partially visible above the approximately 2m tall boundary fence and from planning history, are shown to serve a bedroom/dressing room and a bathroom. Whilst the proposed bungalow would be visible from these windows, it would be set approximately 6m from the dividing boundary. As such, it is considered the development would be unlikely to result in an unduly overbearing impact on neighbouring amenity. Only one window is proposed on the flank elevation of the bungalow which would face towards No. 15a. The window would serve an en-suite bathroom and subject to the imposition of a condition requiring this to be fitted with obscured glazing and be non-opening below 1.7m above the internal floor level (in the interests of privacy), the development is considered unlikely to result in harm to neighbouring privacy. Furthermore, due to the positioning of the dwelling and direction of the sun path, the development would be unlikely to result in overshadowing or loss of light. As discussed at Paragraph 2.9, the access to the dwelling and garage (to serve No. 11) would run adjacent to the dividing boundary with No. 15a and could result in some noise from vehicle movements. However, due to the height of the boundary treatment and number of vehicles associated with the proposal, on balance, this is considered unlikely to result in significant harm to the neighbouring amenity.

#### Nos 45a, 45b, 47 and 47a Bewsbury Cross Lane

- 2.11 Located to the east of the site, these dwellings are set at least 32m from the site boundary. Whilst the proposed bungalow would be visible from these dwellings, due to its height and design, featuring hipped roofs, it is considered unlikely to result in an unacceptably overbearing impact on the residential amenities of

these properties. In respect of privacy, the bungalow would feature three windows on the rear (northeast) elevation. The existing 1.8m close boarded fence would be retained and as such, it is considered the proposals would be unlikely to result in unacceptable harm to the privacy of these nearby residents. In respect of overshadowing, the development would cast shadow towards these neighbouring gardens during the evening, however this would be unlikely to result in significant overshadowing due to the height and hipped roof of the proposed bungalow. As such, it is considered the development would be unlikely to result in unacceptable harm to the amenity of these residents, in accordance with the amenity objectives of Paragraph 127 of the NPPF.

#### No. 11 Bewsbury Crescent

- 2.12 In order to facilitate the erection of the proposed bungalow, the garden of the application property would be sub-divided and an access driveway would be installed along the southeastern side of the retained garden. This would be separated by a 1.8m close boarded fence. There are several windows on the flank elevation of this dwelling and the use of the access would result in some noise and disturbance. However, the access would also be used by the applicants of this property to access the proposed garage (which would have a doorway into their garden). Given this, the boundary treatment, and the limited use of the access associated with one dwelling, on balance, this is considered unlikely to result in such significant harm to residential amenities to warrant refusal. Due to the design, siting and scale of the proposed bungalow, the development is considered unlikely to result in an unduly overbearing impact and due to the direction of the sun path, it would be unlikely to result in overshadowing. In respect of privacy, the bungalow would have a number of windows facing towards the rear elevation of No. 11, however these would be partly obscured by the proposed garage and boundary fencing. As such, the development is considered unlikely to result in unacceptable harm to privacy. Nonetheless, in order to preserve the privacy of surrounding residents, it is considered appropriate to impose a condition restricting permitted development rights for Classes B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to control the installation of rooflights and dormer windows.

#### Amenity of the Proposed Occupiers

- 2.13 The proposed dwelling would be of a good size and all habitable rooms would be naturally lit. It would be provided with a private garden and an area for refuse storage and a shed for cycle storage is shown on the proposed site plan. Subject to a condition requiring details of the proposed cycle storage to be submitted, it is considered that the living conditions of future occupiers would be acceptable and would accord with paragraph 127 of the NPPF.

#### Other Material Considerations

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

- 2.14 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.

- 2.15 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.16 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.17 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.18 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.
- 2.19 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

#### Impact on Parking/Highways

- 2.20 The existing driveway to the side of the dwelling would be extended and would lead to the parking for the proposed dwelling and garage for the existing dwelling. No changes to the existing access to the site are proposed as part of the application. There is existing parking space to the front (west) of No. 11 Bewsbury Crescent for at least two vehicles and this would accord with the parking provision requirements of Policy DM13.
- 2.21 In respect of the proposed dwelling, two parking spaces would be provided. Again, this would accord with the parking provision requirements of Policy DM13. As such, the development is considered unlikely to result in significant harm to highway safety, subject to suggested conditions requiring the provision and retention of the parking area.
- 2.22 As discussed at paragraph 1.4 of this report, amended plans were submitted by the agent which made no changes to the siting, scale or design of the proposals, however included the provision of an electric vehicle charging point for the proposed dwelling. In line with our emerging policy approach, it is suggested that a condition be imposed requiring cabling to be installed to serve one of the spaces associated with the proposed dwelling, to enable the installation of a vehicle charging point.

### Impact on Flood Risk

- 2.23 The application site is located in Flood Zone 1 which has the lowest risk from flooding. Due to the size of the site (less than 1 hectare), a flood risk assessment is not required. Furthermore, as the proposed dwelling would be located within Flood Zone 1, a sequential test is not required. Nonetheless, a condition for details of surface water disposal to be submitted is suggested. Subject to this, the development is considered acceptable in this regard.

### Drainage

- 2.24 Southern Water was consulted on the application and advise that a formal application for a connection to the public foul sewer would need to be made by the applicant or developer. Should permission be granted, their consultation comments will be included on the decision notice as an informative. The application form states the disposal method for foul sewage is unknown and as such, it is considered appropriate to suggest a condition is imposed requiring these details to be submitted. Subject to this, the proposal is considered acceptable in this regard.

## **3. Conclusion**

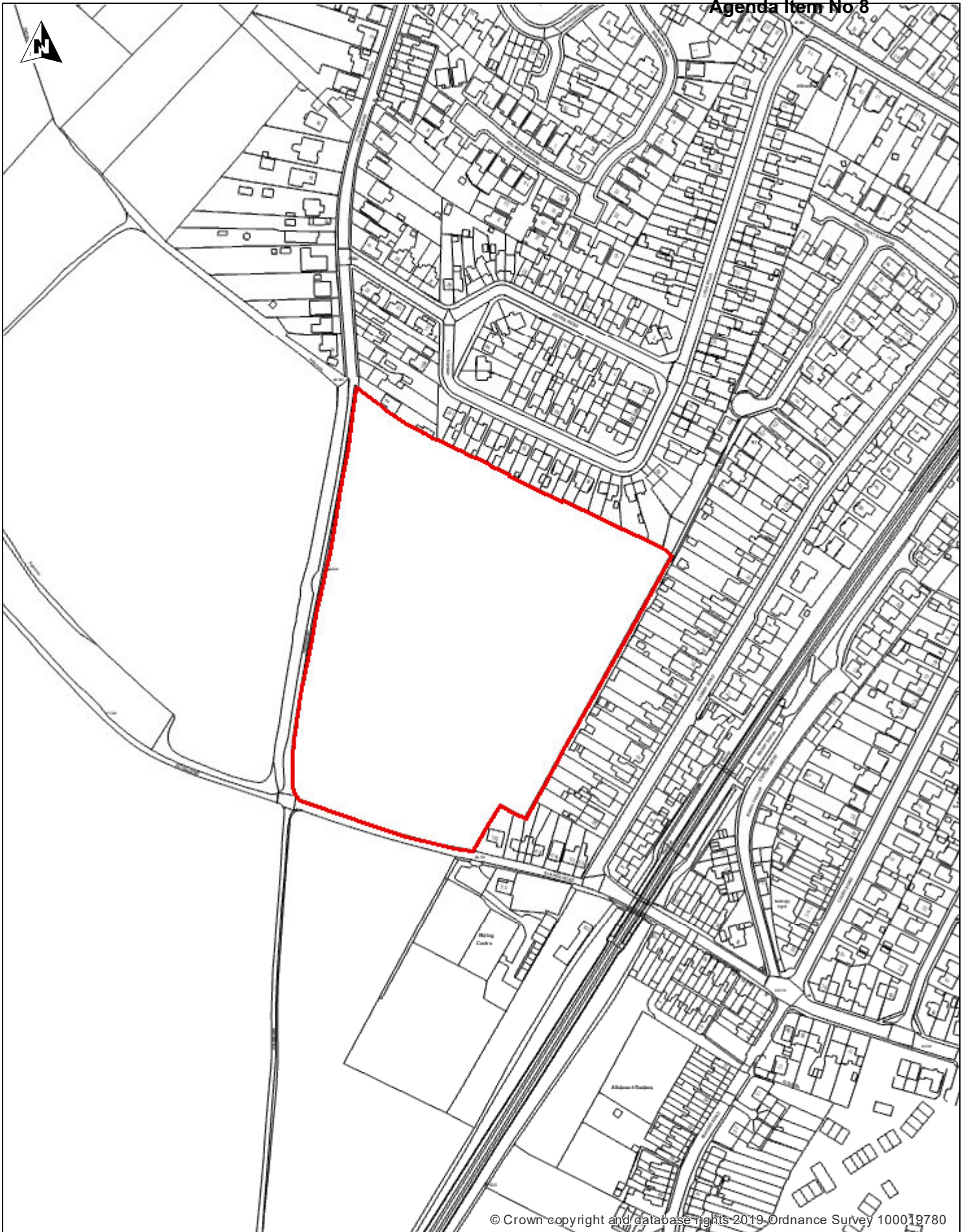
- 3.1 The application site is located within the settlement confines and the proposed erection of a dwelling and detached garage with associated access is considered acceptable in principle in this location. There would be limited views of the proposal from the public highway, however due to the design, siting and scale of the development, it is considered to preserve the varied character and appearance of the street scene. Whilst the proposed driveway would result in some noise and disturbance, for the reasons discussed in this report, on balance, this is considered unlikely to result in unacceptable harm to residential amenity. Furthermore, the development is considered unlikely to result in unacceptable harm in respect of overbearing, overshadowing or harm to the privacy of nearby residents. Subject to the conditions suggested below, it is considered that, on balance, the proposed development would accord with the aims and objectives of the NPPF.

## **g) Recommendation**

- I PERMISSION BE GRANTED subject to conditions:  
(1) Standard time condition, (2) list of approved plans (3) samples of materials (4) details of soft and hard landscaping (including boundary treatments and driveway/hardstanding surfaces) and schedule of planting (5) provision and retention of the parking area with drainage measures installed (6) details of surface water disposal (7) details of foul sewage disposal (8) cables for EV charging points (9) details of secured cycle storage (10) bathroom window on southeast elevation to be fitted with obscured glazing and be non-opening below 1.7m above internal ground level (11) removal of permitted development rights for Classes B and C of Part 1, Schedule 2 of the GPDO.
- II Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer: Rachel Morgan





20/01125  
Site At Cross Road  
Deal  
CT14 9LA

Dover District Council  
Honeywood Close  
White Cliffs Business Park  
Whitfield  
DOVER  
CT16 3PJ



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

- a) **DOV/20/01125 - Outline application for the erection of 100 dwellings with associated parking and means of access (all matters reserved except for access) – Site at Cross Road, Deal**

Reason for report - Number of contrary views (102)

b) **Summary of recommendation**

Planning permission be granted subject to conditions and S106 agreement.

c) **Planning Policies and Guidance**

Legislation

Planning and Compulsory Purchase Act 2004

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”

Core Strategy Policies (2010)

CP1 - Settlement Hierarchy  
CP3 - Distribution of Housing Allocations  
CP4 - Housing Quality, Mix, Density and Design  
CP6 - Infrastructure  
DM1 - Settlement Boundaries  
DM5 - Provision of Affordable housing  
DM11 - Location of Development and Managing Travel Demand  
DM12 - Road Hierarchy and Development  
DM13 - Parking Provision  
DM15 - Protection of Countryside  
DM16 - Landscape Character  
DM17 - Groundwater Source Protection

Land Allocations Local Plan (2015)

DM27 - Providing Open Space

Draft Local Plan (2040) (Regulation 18 Consultation Draft)

The Council is in the final phase of approving the draft Dover District Local Plan for public consultation. This is the start of a process for developing a new local plan for the district, replacing in due course, the Core Strategy and Land Allocations Local Plan. Once the draft plan is approved for consultation, it will be a material planning consideration for the determination of planning applications, although importantly it will have little weight at this stage. As the plan progresses, it will be possible to afford greater weight to policies or otherwise, commensurate with the degree of support/objection raised in relation to them during the consultation process. A final version of the Plan will be submitted to the Planning Inspectorate for examination to determine if the Plan can progress to adoption and, if so, the degree to which final modifications will/will not be required.

At the time of preparing this report, the approval of the Draft Plan for consultation was imminent. It's possible that approval will be made prior to this meeting of the Planning Committee, in which case the policies of the draft Plan will be a material consideration in the determination of the application. Should this be the case, and for the purposes



of this report, it's considered that relevant policies in the draft Plan have little weight at this stage and do not materially affect the assessment and recommendation herein including (where appropriate) the framing of conditions or reasons for refusal.

#### National Planning Policy Framework (NPPF) (2019)

Paragraph 2 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 8 - Identifies the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles.

Paragraph 11-12 - Presumption in favour of sustainable development for decision-taking. For decision taking this means approving development proposals that accord with the development plan without delay unless adverse impacts significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.

Paragraph 38 - LPA's should approach decisions on proposed development in a positive and creative way and work pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision makers should seek to approve applications for sustainable development where possible.

Paragraph 59 – To support the Governments objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Paragraph 78 – To promote sustainable development in rural areas, housing should be located where it will enhance the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.

Paragraph 108 – Applications for development should make appropriate opportunities to promote sustainable transport modes, provide that safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network in terms of capacity and congestion) or on highway safety can be mitigated.

Paragraph 109 - Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 117 – Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 122 – Planning policies and decisions should support development that makes efficient use of land, taking into account (amongst other considerations) the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.

Paragraph 123 – Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal

use of the potential of each site.

Paragraph 124 – The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 – Planning decisions should ensure that developments:

- Will function well and add to the overall quality of the area, for the lifetime of the development;
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks; and
- Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where the fear of crime does not undermine the quality of life.

Paragraph 128 – Design quality should be considered throughout the evolution and assessment of individual proposals. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably.

Paragraph 130 – Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards.

Paragraph 148 – The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise, vulnerability and improve resilience; encourage the reuse of existing resources, support renewable and low carbon energy and associated infrastructure.

Paragraph 163 - When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

Paragraph 170 - Planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the wider benefits of ecosystem services and minimise impacts on biodiversity and providing net gains in biodiversity. Recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 175 - When determining planning applications, local planning authorities

should apply the principles to conserve and enhance biodiversity and development proposals where the primary objective is to conserve or enhance biodiversity should be permitted, opportunities to incorporate biodiversity in and around developments should be encouraged and planning permission should be refused for development resulting in the significant loss or deterioration of irreplaceable habitats, including SSSI's, ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

Paragraph 177 – The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site, unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Paragraph 178 - To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 180 – Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. This includes noise from new development and the need to avoid noise giving rise to significant adverse impacts on health and the quality of life, identify and protect tranquil areas prized for their recreational and amenity value and limit the impact of light and pollution for artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Paragraph 181 - Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

National Design Guide (2019)

DDC Affordable Housing and Addendum SPD (2011)

Kent Design Guide (2005)

**d) Relevant Planning History**

DOV/19/00642 - Outline application for the erection of 100 No. dwellings with associated parking and means of access (all matters reserved except for access) – Refused – Appeal Inquiry date 23<sup>rd</sup> February 2021

DOV/17/00505 - Outline application for the erection of up to 235 dwellings (with landscaping, appearance, layout and scale to be reserved) - Refused

DOV/17/00336 – Request for Screening Opinion for residential development – EIA Not required

DOV/16/01441- Change of use of land for the keeping of horses and the erection of field shelters, stables and fencing and laying of hardstandings – Refused

DO/80/1180 – Outline application for residential development at 12 dwellings per hectare – Refused – Appeal Dismissed

CH/1/68/8 – The erection of dwellings – Refused

CH/1/65/236 – The erection of dwellings – Refused

CH/1/64/64 – Outline application for dwellings and estate roads - Withdrawn

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

DDC Infrastructure and Delivery Officer – (Comments from DOV/19/00642 but still applicable) Policy CP 6 of the Core Strategy 2010 states that development that generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either already in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.

Additional need arising from residential developments is calculated using average occupancy rates. Where the application is in outline and the final housing mix is not known, a policy compliant mix across all tenures is assumed. On this basis, the below table calculates that **274.49** new residents will be generated by the proposed development.

Applying the adopted DM27 requirement of 2.22 ha per 1,000 population against the anticipated number of new residents of **274.49** generates an overall accessible green space requirement of **0.6094 ha**. The indicative site layout shows 0.90 ha Accessible Green Space is to be provided on site.

An area of on-site accessible green space should be secured as part of the site layout at the reserved matters stage. The amount required will be dependent on the final agreed mix of housing applying the 2.22 ha per 1,000 population requirements of DM27. Based upon the indicative layout this should be no less than **0.6094 ha**. Provision and long-term maintenance/management of the accessible green space should be secured within the legal agreement.

Applying the adopted DM27 requirement 1.17 ha of natural grass playing pitches per 1,000 against the anticipated number of new residents of **274.49** generates an overall outdoor sports facility requirement of **0.3212 ha**. On site provision would be impractical on a site of this size. An appropriate off-site contribution is therefore necessary for this site to be considered policy compliant.

Appropriate offsite contributions are calculated by working out the proportion of a complete facility required to meet the additional need. The most up-to-date Sport England Facilities cost guidance advises a natural turf senior pitch is 0.7420 ha in size and has a capital cost of £100,000. The **0.3212 ha** natural grass playing pitch need generated by the proposed development equates to **45.88%** of a natural turf senior pitch which equates to a proportionate offsite contribution of **£45,879.54**.

Improving pitch quality at the Deal & Betteshanger Rugby Club is an emerging priority from work currently being undertaken as part of the update to Dover's Playing Pitch strategy. Of the two pitches, the floodlit pitch is of poor quality as the floodlit area of the pitch has drainage issues. The non-floodlit pitch is of standard quality.

A proportionate contribution, which would be **£45,879.54** based upon the indicative housing mix for this scheme, towards an enhanced maintenance regime at Deal & Betteshanger Rugby Club, would be justified in this instance.

Applying the adopted DM27 requirement of 0.06 ha per 1,000 population against the anticipated number of **274.49** generates an overall children's equipped play space requirement of **0.0165 Ha**. There is no existing play area within the applicable accessibility standard. The indicative site layout shows a Children's Equipped Play Space of **0.03 ha** is to be provided on site. Provision and long-term maintenance/management of the Equipped Play should be provided onsite and secured within the legal agreement. The minimum amount required will be dependent on the final agreed mix of housing applying the 0.06 ha per 1,000 population requirements of DM27. Based upon the indicative layout this should be no less than **0.0165 Ha** The type, layout and design will be dependent on the final agreed mix of housing and site layout agreed at the reserved matters stage. The anticipated number of new residents generates an Allotments / Community Gardens requirement of **0.0576**

The indicative site layout shows a Community Orchard of **0.05 ha** is to be provided on site. Provision and long-term maintenance/management of the Community Orchard should be provided onsite and secured within the legal agreement.

The minimum amount required will be dependent on the final agreed mix of housing applying the 0.06 ha per 1,000 population requirements of DM27. Based upon the indicative layout this should be no less than **0.0165 Ha** The type, layout and design will be dependent on the final agreed mix of housing and site layout agreed at the reserved matters stage.

The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites. The strategy requires all development of 15 units or above to make an appropriate contribution. An appropriate off-site contribution of £6,066.43 is therefore necessary for this site to be considered policy compliant.

The introduction of new CIL regulations in September 2019 has confirmed that a local planning authority is entitled to levy a monitoring fee to cover the costs of monitoring planning obligations within Section 106 agreements. The council employs a dedicated monitoring officer whose time spent on monitoring is recorded to ensure fair and consistent monitoring fees are in place. Individual agreements throughout the previous financial year have been assessed to see what the overall monitoring fee would be in relation to each trigger event. From this a proportionate monitoring fee of £236 per trigger event has been established.

DDC Ecologist: I have no concerns and support the recommendations made for biodiversity enhancement, which should be incorporated into a Landscape and Ecological management plan by way of planning condition. In summary they include:

- New habitat creation, including woodland, scrub, trees, informal and formal grassland areas, attenuation features, and a community orchard. New ecological corridors will be created via the planting of trees, hedgerows and scrub lines.
- A SUDs scheme with attenuation pond
- Planting schemes should use native species with an emphasis on species bearing nectar, berries, fruit and nuts, to enhance the foraging opportunities for local fauna and be subject to sympathetic management to promote their conservation value.
- provision of bat boxes. These could include lbstock bat bricks or Schwegler 1FR Bat Tubes which can be incorporated into the walls of the new buildings and Schwegler 1F and 2FN bat boxes for trees.
- bird nest boxes or nest bricks around the development. The use of a number of different entrance holes, (26mm, 32mm) and open fronted will enable the scheme to

encompass the nesting requirements for a range of species. Boxes should be placed on existing features within sheltered areas, free of regular disturbance. Nest bricks may be incorporated into the fabric of proposed buildings.

reptile hibernacula.

Mitigation measures for protected species include:

habitat manipulation to displace the small number of reptiles, which may occupy the margins of the field

removal of woody vegetation to be outside of the bird nesting season (March to August inclusive).

Habitat Regulations Assessment: The consultant has provided a report to inform HRA. Recreational disturbance is identified as likely significant effect upon the Thanet Coast & Sandwich Bay Ramsar and SPA and the Sandwich Bay SAC. The applicant intends to make a financial contribution to the Thanet Coast & Sandwich Bay Mitigation Strategy and will provide approximately 1 hectare of open space within the development site, to be used as alternative recreational space.

DDC Housing Manager: (Comments from DOV/19/00642 but still applicable) There is a need and demand for affordable rented homes of all sizes within the Dover district. In addition to 70 homes for sale, the application proposes 30 homes with 1, 2 and 3 bedrooms for affordable rent, which would provide a valuable contribution towards meeting the affordable housing needs of the district.

DDC Environmental Health - No objection subject to conditions relating to a Construction Environmental Management Plan and Contaminated Land conditions.

I note the Air Quality Screening Report (Wardell Armstrong ref# LE13820/PT/MW/002 6<sup>th</sup> March 2019) considers the impact of the development in terms of the construction and operational phases and I can confirm that a detailed air quality assessment is not required for this application. In terms of the construction phase it is noted there is clearly the potential for fugitive dust levels to cause disturbance to existing residents in the area. It is therefore recommended that a site specific dust management plan is submitted and secured by condition that includes suitable mitigation to control dust levels in accordance with the Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction 2014.

It is noted that in terms of good design principles and best planning practice Electric Vehicle re-charging provision is to be provided. The incorporation of facilities for charging plug-in and other ultra-low emission vehicles is noted as one means of achieving this. I would therefore recommend a suitable condition is included in respect of securing this provision.

Noise Screening refers to noise assessment report (Wardell-Armstrong LE13820 May 2017). EH concur with the findings of the report and would recommend a sound insulation condition.

KCC Highways and Transportation – I refer to the above planning application and note this is the same as the previous application DOV/19/00642, albeit it also includes the additional information provided through the previous application process.

The Transport Assessment shows there is unlikely to be a severe impact on the wider highway network in capacity terms from the vehicle trips generated by the proposals, with the junctions assessed still working within capacity. The vehicle trip generation figures used (58 two-way trips in the am peak hour and 62 two-way trips in the pm peak hour) are very robust for this location within walking distance of schools, bus stops, the railway station and other services/amenities, such that the number of trips generated is in any case likely to be less than that considered in the assessment. The

distribution of trips to/from the site is likely to be split evenly in Cross Road north and south of the site access, with most trips to/from the south then being along Station Road.

I also concur with the Coldblow Level Crossing Impact Assessment submitted that in highway terms, the development proposals are unlikely to generate a material increase in use of Coldblow and the crossing or have a material impact on the highway in relation to rail replacement bus services.

The northern section of Cross Road is subject to existing on-street parking, however it is not a heavily trafficked road and there are regularly spaced passing places available. However, there is still a need to suitably accommodate the additional traffic and pedestrians in the narrower section of Cross Road and at the junction with St Richards Road, and highway improvements are therefore proposed as follows:

- Widening of the road in the vicinity of the site access to allow two vehicles to pass each other and provide suitable manoeuvring room for refuse/delivery vehicles servicing the site;
- Provision of a footway between the site access and the existing footway network in Cross Road;
- Formalisation and improvement of the existing single-way working section of the road between the site access and the wider section of Cross Road to the north, improving visibility for drivers on the approaches to the single-way working section. This will require the removal of two existing on-street parking spaces currently in use on the west side of the road;
- Provision of an additional passing place in the section of Cross Road to the south of the site, providing regularly spaced passing places between the site access and the junction with Station Road;
- Extension of the existing 30 mph speed limit to the junction of Cross Road and Station Road,
- Provision of improved pedestrian crossing facilities at the junction of Cross Road with St Richards Road, including dropped kerbs, tactile paving and a pedestrian island. This will require the removal of four existing on-street parking places currently in use on the east side of Cross Road and the south side of St Richards Road.

The majority of Station Road between the site and Dover Road has suitable width and passing places where necessary to accommodate the development. However, there is still a need to suitably accommodate the additional traffic and pedestrians in the narrower section of Station Road between the site boundary and Station Drive, and highway improvements are therefore proposed as follows:

- Widening of the section of Station Road fronting the site;
- Formalisation and improvement of the existing single-way working section of the road between the site boundary and Sydney Road together with a new 1 metre-wide footway connecting the site to the existing footway network. Whilst it would be preferable to have a wider footway, both the road and footway are unlikely to be heavily trafficked and this will be a lower speed environment, so the footway width available is considered to be acceptable. These works will require the removal of three existing on-street parking spaces currently in use on the south side of Station Road,
- Extension of the existing 30 mph speed limit to the junction of Station Road and Cross Road
- Provision of improved pedestrian crossing facilities at the junction of Station Road with Station Drive, including a pedestrian build-out, dropped kerbs and tactile paving. This will require the removal of two existing on-street parking spaces currently in use on the south side of Station Road.

The proposed improvements acceptably mitigate the impact of the development such that it is not considered to be severe. The detailed street layout and parking provision within the site would be dealt with through a reserved matters application. The routing

and timing of HGV's related to construction of the development will need to be suitably managed and this can be resolved through a Construction Management Plan secured by condition. Taking all of the above into account I would not recommend refusal on highway grounds subject highway matters being addressed by conditions.

KCC Archaeology: The application is accompanied by an Archaeological Appraisal report and a Built-Heritage Statement, the appraisal provides a reasonable account of the archaeology of the area and of the site's archaeological potential. The site lies on a south-west facing slope just off the crest of the Mill Hill ridge. The Mill Hill area has long been recognised for its archaeological importance with several significant archaeological discoveries having previously been made nearby. During the nineteenth century several large chalk quarries were developed along the Mill Hill chalk ridge by local builders. No formal archaeological investigations were undertaken during this quarrying however numerous burials (both cremations and inhumations) of probable Iron Age, Roman and Anglo-Saxon date were recorded during the working of the pits.

Between 1984 and 1989 the Dover Archaeological Group undertook excavations on the site of the Walmer Way housing development which also lies to the north of the proposed development site. More than 500 individual archaeological features were identified which dated from the Neolithic (c. 3000 BC) to the post-Roman period (c. AD 1400). Some 132 burials were also excavated. The extents of this important multi-period site were not located in any direction. Discoveries at the Walmer Way site, some of which are of major importance, included a sixth century Anglo-Saxon cemetery, a rare Iron Age inhumation cemetery, a Bronze Age ring-ditch, Neolithic pits and a Romano-British field system. One of the Iron Age graves contained a particularly important burial, that of the 'Mill Hill Warrior', who was buried with a sword, shield and crown (now displayed in the British Museum).

The archaeological appraisal rightly identifies that the proposed development site lies within a rich and dense archaeological landscape and suggests that overall the site should be considered to have a moderate potential for previously unrecorded archaeological remains to be present on site. In broad terms I would support the WYG assessment of the site's archaeological potential. The document goes on to note that the construction of the proposed development would result in the removal of any archaeology which might be present at the site and that due to the nature of the development such construction impacts could occur across most of the application site. On this basis the appraisal advises that archaeological mitigation works would be appropriate and suggests a programme of archaeological investigation, involving archaeological trial trenching in the first instance, with the results of the trial trenching informing the scope of any further archaeological mitigation. I agree with such an approach and would suggest that such an archaeological programme could be secured by condition.

I would suggest that the proposed development has the potential to affect presently unknown archaeological remains from a range of periods. Paragraph 199 of the NPPF notes the requirement for developers "*to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible*". It is therefore recommended that a condition is included in any forthcoming planning consent to secure the investigation and recording of the archaeology to be affected by the development and to ensure that the results of these investigation are made publicly accessible.

KCC Flooding and Waste Management – In principle, we are satisfied with drainage information submitted at this stage and therefore have no objections to the drainage design. Should your local authority be minded to grant permission from this development, we would recommend conditions relating details of surface water



drainage to be provided at reserved matters stage, to a detailed sustainable surface water drainage scheme and a verification report.

KCC as LLFA have reviewed the Flood Risk Assessment and Outline Surface Water Drainage Strategy prepared by RSK dated April 2020 and agree in principle to the proposed development.

The current surface water strategy proposes that surface water will be managed within 2 catchment areas through a series of piped networks and swales with pollution control devices prior to discharging into an infiltration basin to the south west of the site.

We appreciate that these are integrated into open spaces.

The information submitted to support the outline component of the planning application has demonstrated how surface water may be managed within an indicative layout. Given the high-level strategy presented:

1. We agree that the approach as outlined within the Flood Risk Assessment with attenuation of surface water to QBAR is appropriate and demonstrates that surface water can be accommodated within the proposed development area.
2. We would refer the applicant to information within KCC's Drainage and Planning Policy Statement which describes policy in relation to drainage operational requirements and consideration of other matters in relation to layout and design.
3. We note that if permeable paving is proposed we would recommend that other underground services, such as foul sewers, are routed outside of areas of permeable paving or cross it in dedicated service corridors, particularly where sewers will be offered for adoption.
4. At the detailed design stage, we would expect to see the drainage system modelled using 2013 FeH rainfall data in any appropriate modelling or simulation software.

Where 2013 FeH data is not available, 26.25mm should be manually input for the M5-60 value, as per the requirements of our latest drainage and planning policy statement (June 2019).

Additional comments:

5. Where swales and basins are proposed, they should be designed with side slopes of 1 in 4, or where space is limited the slopes, the slopes should be no greater than 1 in 3. The design of these features should also consider access and maintenance arrangements of these features.
6. We would recommend the depth of basins/ponds within developments are not considerably deep (greater than 1.2 m deep). Whilst this would limit the amount of storage within the basin, we would recommend consideration of other approaches to design, for example that geocellular tanks may be installed beneath the basin to provide any additional storage needed.
7. We would recommend that full consideration is given to the landscaping of the basins and promotion of multi-functional design. The current basin arrangement may not maximise the open space and biodiversity opportunities available.

KCC- Economic Development – Financial contributions are requested from the developer for the enhanced provision and projects towards community services to include:

- Primary Education – No contribution requested
- Secondary Education - £4540.00 per dwelling towards the expansion of Deal & Sandwich non-selective and Dover District selective schools
- Community Learning - £16.42 per dwelling towards additional resources including IT equipment for the new Learners at Deal Adult Education Centre
- Youth Services - £65.50 per dwelling towards additional resources for Deal Youth Service
- Social Care - £146.88 per dwelling towards specialist care accommodation within Dover District

- Library Bookstock - £55.45 per dwelling towards additional resources and stock for Deal Library

These contributions to be secured through a Section 106 Legal Agreement as part of any submission. In addition, the provision of Fibre Optic Broadband across the site should be provided.

Southern Water – The exact position of the public foul sewers must be determined on site by the applicant before the layout of the proposed development is finalised.

Southern Water has undertaken a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water.

Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme. Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement. Southern Water hence requests the following condition to be applied:

*“Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development”*

It may be possible for some initial dwellings to connect pending network reinforcement. Southern Water will review and advise on this following consideration of the development program and the extent of network reinforcement required. Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of works required and to design such works in the most economic manner to satisfy the needs of existing and future customers.

The overall time required depends on the complexity of any scheme needed to provide network reinforcement. Southern Water will seek however to limit the timescales to a maximum of 24 months from a firm commitment by the developer to commence construction on site.

Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

We request that should this application receive planning approval the following condition is attached to the consent:

*“Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.”*

Following initial investigations, Southern Water can provide a water supply to the site. Southern Water requires a formal application for connection and on-site mains to be made by the applicant or developer.

Environment Agency: We have reviewed the information submitted and we think the proposed development will be acceptable if a **planning condition** is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework.

Without these conditions we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution. Controlled waters below the site of proposed development are particularly sensitive in this location because the proposed development site is within source protection zone 1 and located upon a principal aquifer.

The application's Phase 1 Geo-environmental site assessment by RSK dated May 2019 demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to planning permission.

Highways England: Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN, in this case, the A2 in the vicinity of Dover, particularly around the Duke of York Roundabout. We are also aware of worsening congestion issues at the A2 Duke of York Roundabout since August 2019.

Highways England had previously responded in October 2020, requesting an updated Transport Statement (TS) be supplied to support the proposed development. Croft Transport Planning & Design has provided an updated Transport Statement which was utilised in support of the 19/00642 application. A TRICS assessment has been included. While Highways England does not agree with the TRICS methodology used (incorporating sites from Ireland, Scotland and Wales when there are sufficient sites within the southeast upon which to base an assessment) it provides sufficient information to allow us to conduct our own assessment. That assessment of trip distribution and TRICS indicates a trip generation of approximately 17 AM and 19 PM (two way trips) upon the SRN.

As such, Highways England does not consider that the proposed development is likely to have a significant impact upon the SRN in terms of the safety, reliability and/or operational efficiency of the SRN (the tests set out in DfT C2/13 para 8 to 11 and MHCLG NPPF2019 para 108 to 111). Accordingly, please find attached our formal HEPR of No Objection for your records.

National Rail: This is the resubmission of a previous proposal, no objections.

Natural England: No objections, standing advice should be referred to. Designated sites [European] – no objection subject to mitigation - Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area and Ramsar Site may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution. Subject to the appropriate financial contribution being

secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site.

Rural Planning Ltd: (Comments from DOV/19/00642 but still applicable) There would be a loss of some of “best and most versatile” agricultural land. A judgement and recent appeal decisions, in which relatively little significance has been placed on the loss of BMV land, it appears that to successfully argue loss of BMV land as a reason for refusal, the burden would fall on a Council in having to demonstrate that the development is unnecessary, as it could take place on sufficient other feasible sites, of lower quality land than the application site. I am not personally aware that there are sufficient other feasible sites of lower quality. In conclusion, it seems unlikely that loss of BMV land could be seen as a valid reason for refusal of the application in this instance.

South Kent Coast CCG: Requests a contribution of £86,400 to General Practice towards refurbishment, reconfiguration and/or extension within the Deal/Sandwich Primary Care Network

Justification for infrastructure development contributions request:

This proposal will generate approximately 240 new patient registrations when using an average occupancy of 2.4 people per dwelling. The proposed development will generate a need for increased capacity within the PCN that requires a contribution although it is not possible at the stage to identify a specific project.

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; this is highlighted in the CCG GP Estates Strategy. General practice premises plans are kept under regular review as part of the GP Estates Strategy and priorities are subject to change as the CCG must ensure appropriate general medical service capacity is available as part of our commissioning responsibilities.

Planning for growth in general practice is complex; physical infrastructure is one element but alongside this workforce is a critical consideration both in terms of new workforce requirements and retirements. Any plans developed need to support delivery of sustainable services for the future. It is likely that the restrictive occupancy nature of this development will have a higher impact than normal on the workforce as residents are more likely to have multiple or complex health needs.

In addition to the above we request that any agreement regarding a financial contribution:

- Allows the contribution to be used towards new general practice premises in the area serving this population.
- Allows the contribution to be used towards professional fees associated with feasibility or development work for existing or new premises.
- Supports the proactive development of premises capacity with the trigger of any healthcare contribution being available linked to commencement or at an early stage of development.

The CCG is of the view that the above complies with the planning regulations and is necessary in order to mitigate the impacts of the proposal on the provision of general practice services. In accordance with regulations the CCG confirms that there would not be more than four other obligations towards the final project(s).

Kent Fire and Rescue: The means of access is considered satisfactory.

Kent Police Crime Prevention – We have considered this application with regard to Crime Prevention Through Environmental Design and the National Planning Policy Framework (NPPF). Applicants/agents should consult a local Designing Out Crime Officer (DOCO) or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.

Secured by Design (SBD) Homes 2019 is the current guidance document addressing community safety and security requirements for dwellings. To meet SBD requirements, doorsets and windows must be tested and certified by an SBD recognised third party certification authority. Approved Document Q building regulations for doorset and window specifications only require testing to PAS 24 2016 – [www.securedbydesign.com](http://www.securedbydesign.com)

The applicant/agent has not yet demonstrated that they have considered designing out crime or crime prevention. To date we have had no communication from the applicant/agent and there are issues to be discussed and addressed, these include:

1. Development layout
2. Perimeter, boundary and divisional treatments
3. Permeability
4. Parking inc. visitor
5. Lighting and CCTV
6. Access Control
7. Doorsets
8. Windows

Meeting SBD Homes 2019 – this application should achieve SBD Silver standard as a minimum.

We welcome a meeting or discussion with the applicant/agent about site specific designing out crime. If these issues are not addressed, it may affect the development and have a knock on effect for the future services and duties of local policing. If this application is to be approved, we request that a Condition or Informative be included to show a clear audit trail for Design for Crime Prevention and Community Safety and meet both our and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.

A development that achieves SBD accreditation, demonstrates that security has been addressed. If the applicant/agent intends to apply for SBD accreditation they are strongly advised to contact us before completing the application form.

Walmer Parish Council: Members would like to oppose this application as per Walmer Parish Councils decision on the 13th of November 2019

a) The revised traffic safety plans make only minor improvements to traffic management in close vicinity to the development site. There is no fundamental change to any of the key traffic problems off the site. The additional traffic produced by the development still has to access the site via the Cross Road/St Richards Road junction or via the Cross Road/Ellen's Road junction which are single track roads. Ellen's Road turns into Station Road as it approaches the railway bridge and Sydney Road junction. While there is some small improvement to the traffic priority system on Ellen's Road, the problem is the narrowness of the roads generally and the lack of sight lines. Having looked at the extremely useful maps in the 2002 Local Plan, the site sits at the head of adry valley along the bottom of which runs Ellen's Road. The dry valley flows into the Lydden valley at Sholden. Building on the site will increase surface run off, which will end up in Sholden. This valley should not be developed as it 1) is essential for surface drainage, 2) it is essential for the

maintenance of the underlying aquifer, and 3) it forms a clear boundary to the urban area.

b) Members also agreed to uphold the original decision made by the Dover District Council planning committee, in the matter of this application. Whilst its important for officers to advise councillors on the possible legal liabilities, it is also appropriate for the Dover district Council officers to advise on the planning grounds and legal liabilities of a planning appeal by Gladman's in this matter. It is not satisfactory for those planning officers to say to elected members that they will refuse to defend the application decision made by elected members in this matter. If elected members require it, the Dover district council officers, should implement what they have been told to do. Elected members make decisions on all councils, officers implement those decisions.

Great Mongeham Parish Council: Great Mongeham Parish Council strongly object to this application on the grounds outlined in the letter from Walmer Parish Council. In addition the Council would like to raise an objection on highways grounds. This development would cause an increase in traffic in Great Mongeham as a rat run to the Deal- Sandwich Road. Traffic through the village has increased greatly in the past few years following other developments in the area. An additional 100 dwellings will only add to the traffic problems in Great Mongeham.

Deal Town Council: Deal Town Council object as proposed area is outside settlement boundary, not in DDC's current Local Plan, would cause major Highways issues, fails to deliver sustainable development, would have a negative impact on amenity and character of the area. The plans are contrary to the adopted policies of the Planning Authority and are contrary to the National Planning Framework. The local infrastructure is incapable of sustaining any further development.

The Deal Society: repeats its objection. The infrastructure at this location is simply incapable of sustaining the scale of development proposed. We object strongly to any suggestion that DDC will not defend its earlier decision which reflected the views of the local residents.

Third Party Representations - A total of 102 representations have been received objecting to the proposal. The following is a summary of the objections received:

- Infrastructure in Deal needs to be provided before any more residential development should be allowed
- Noise of 200 vehicles accessing the site will impact upon those already living either side of Cross Road
- Residents will be reliant upon private vehicle transport
- Will lead to the infilling of the gap south of St Richards Road to Mongeham
- Brexit may increase the need to grow more produce domestically and the loss of farmland should be stopped
- Impact archaeological remains
- The proposed new footpath is too narrow to be safely used, with no lighting and adjacent to a road with a 60mph limit
- No passing space in Station Road and 'priority system' proposed does not address this
- Add to pressure of congested junctions at Station Road – Dover Road
- Power network cannot cope
- LPA should look at fully planned new town rather than further extensions to Deal/Walmer on greenfield sites
- Development is outside the urban boundary
- Detrimental impact on the landscape & development is in the countryside
- This is high quality agricultural land

- This has serious traffic implications, existing roads heavily congested
- Local roads can't cope and are not suitable for increases in traffic
- Not enough school places already
- Bats use the site
- Cross Road already floods
- Doctors are over capacity already
- The water supply and foul drainage system cannot cope with increases
- The drains flood nearby properties and roads, including sewerage
- Impacts the amenities of existing residential properties
- Deal doesn't need more housing
- The proposed pedestrian crossing doesn't consider parking and visibility
- Local roads are narrow, mostly single lane due to parking
- More of the countryside will disappear
- Increase in air/noise pollution
- Impact on a peaceful rural location
- Dover Road is unsafe and can't cope with increased volumes
- Cross Road is very narrow and already busy
- Not enough car parking in town
- Facilities in town are not good enough people have to travel elsewhere
- Additional roads in Deal are needed
- Traffic is already seriously affecting a small town causing chaos
- Access to Dover Road is difficult and hazardous with long delays
- The cumulative impacts of the development cannot be assessed at this stage and need to be considered
- No suitable access to the site
- How will construction traffic access the site under a low railway bridge
- Cars use the fields to pass as the road isn't wide enough
- There are no public footpaths along adjacent roads
- The development will destroy the rural landscape and be detrimental
- Refuse lorries and emergency vehicles already struggle to get access
- Existing wildlife has not been considered
- Hospital facilities are limited
- Lack of local jobs and no employment opportunities
- This is a small seaside town, too much development in Deal
- This development is just greed and a money-making exercise
- Cars are parked along the length of Cross Road
- The town is sustainable, this development is not
- This will seriously harm the visual and landscape quality and character of the countryside
- More development will change the character of Deal which gives it its appeal
- Permission for stables on the site was refused
- Affordable housing is required, will only be bought as second homes
- Properties looking onto the site are bungalows, development will be overpowering
- The developers have no consideration of the impact on the town and local people
- The noise and pollution from the construction traffic will be hideous
- Extension to the town should go through the proper planning process
- No consultation with local residents, their views are not being heard
- Increased hazards for pedestrians which is difficult due to parking and poor quality footpaths
- Have all alternative and brown field sites been considered
- There are enough housing estates already for a small town
- The town heritage and history needs to be retained
- Effect on the quality of life for residents

- There are regular accidents at the junction onto Dover Road
- The financial benefit to Deal would be minimal and contributions are insufficient
- Loss of enjoyment of countryside
- The landscape in the valley is very important
- Will affect public footpaths and increased use of footpaths
- Sewers overloaded every time it rains heavily
- Development would be an eyesore
- The immediate area is not on mains drainage
- Children have to travel to Sandwich and Dover for schools
- Public transport is poor and not good enough for increased use
- Roads unsuitable for HGV's, often get stuck
- Increased pressure and hazards on an unmanned level crossing at Coldblow
- Impact on the local riding centre and horse riding in the area will be significant
- Impact on cyclists in the area
- Roads are already often blocked with cars refusing to reverse so two cars can't pass
- There are already a large number of houses for sale in Deal there is no local demand
- Land identified as highway land, is not within the highway and is privately owned land
- A larger development was previously refused
- The local community needs to be put first
- A new link road is required
- There are rare lizards on the site
- There are already too many new housing developments in the area
- Fields for crops are needed and existing environment should be preserved
- Confusion on the planning policy position
- Neighbours not directly consulted
- Improvements to Station Road/Dover Road junction have not been delivered
- Vehicles use pavements to park and pass parked cars
- Increase in anti-social behaviour in Deal
- No provision for the needs of children
- Loss of on-street car parking
- Access to parking will be restricted
- Driving around Deal is becoming more difficult
- Drivers take short cuts and this is not considered in the Transport Statement
- Proposed footpath along Station Road is too narrow and not safe
- Impact of the increase in users on the manual level crossing and safety concerns
- Changes to the highway are inadequate
- Area is not suitable for development
- Impact on existing junctions not fully considered
- Traffic figures identified are incorrect
- The development is not sustainable, not needed and will have a detrimental effect on the existing community
- Central government advice should not be taken into consideration as its not sustainable
- Double yellow lines are ignored
- Drivers drive too fast, take no notice of signs or measures to slow traffic
- In a high flood risk area, known to flood
- DM1 is still relevant and the policy position is being misinterpreted
- Are road works intended to take place before houses are constructed
- Effect on an existing business – riding school
- How does this development address carbon emissions – does not comply with NPPF



- Consultants need to visit a site and undertake local consultation – shouldn't consider their evidence or opinion
- Insufficient consideration has been given to the riding school business
- An adjacent building site is a high risk to riders and horses at the riding school
- There will be continuous construction noise for years
- Riding school business would no longer be able to operate
- Landscaping should be implemented pre-construction
- There will be harm and stress caused to the horses
- An electric sub-station is proposed near residential properties this is not acceptable
- There is no access to Sydney Road from the site, this is a private means of access and is privately owned and maintained.
- Works to Station Road will take longer than 4 weeks and cause more congestion
- How will access be maintained to residential properties during the road works
- Drainage problems in Deal haven't been addressed
- Noise and vibration from construction traffic
- Parked cars will get damaged as Cross Road isn't wide enough for passing cars
- Construction traffic will affect residents and pedestrians and their health and safety, there are serious implications and pollution concerns
- Where will construction workers park?
- Crossing Cross Road is already hazardous, especially for children/elderly
- There isn't space for residents to park cars on their properties, access will be affected
- Nobody in the local area wants this development the application has been discussed many times and should be refused, existing residents are not being listened to
- Why do residents have to put up with this distribution and stress
- This proposal if approved would cause a precedent
- Use of the manual level crossing will almost certainly increase due to congestion and road works associated with this development
- This is a greenfield site and should be kept as such for local residents
- Proposed landscaping would not screen the riding school
- Development on this site is inappropriate and should not be allowed
- The level crossing impact assessment does not take into account congestion problems on Dover Road and Station Road which result in an increase in the use of the level crossing
- Bats use the local area and the site should be maintained as open space for the benefit of wildlife and local people
- Deal already has flooding problems with the combined sewer in town, this will add to the problem
- The application should go to appeal, be defended and this application should not be determined until that process is complete
- The proposal has previously been refused (twice), the reasons should be upheld by all, how can this all be considered again
- The planning process is undemocratic, not transparent or open
- Why is this application being considered again it was refused democratically and should not be questioned
- Why are national targets more important than local views
- Why has an identical application been submitted or considered
- The Council should listen to the locals who live nearby not distanced professionals

It is worth noting that a number of objections were raised in relation to the process of the application and committee, along with the consideration of planning policies. A

discussion of the application without access for the public is not considered acceptable or democratic and has raised serious concerns in the local population and the processes.

#### Landscape Consultants Advice (Comments from DOV/19/00642 but still applicable)

An independent Landscape Consultant was appointed by DDC to provide advice on the landscape impact of the proposed development and provide advice on the appropriateness of the Landscape and Visual Impact Assessment (LVIA) submitted by the applicants. A full report has been provided and is available to view online. It concludes:

*“Taking into the account the findings of the LVA and the assessment of policy compliance as set out in the preceding section of this report, it is advised that overall, there appear to be no significant landscape and visual issues that would arise in granting consent of an outline planning permission.*

*In summary, the proposed development would have some landscape and visual relationship with existing settlement along the northern and eastern site boundaries and although development would extend across a sloping open field, the landscape impact of this is minimised to some degree by existing development to the east.*

*Although some adverse effects are predicted, these are relatively localised in extent and the proposed mitigation measures are considered an adequate response to minimise effects and help integrate the site into the surrounding landscape.”*

#### f) 1. **The Site and the Proposal**

1.1 The site is located on the southern boundary/edge of Deal and is currently used for agriculture and the growing of crops. The site comprises an agricultural field with Cross Road to the west and some hedgerow and small trees to the south western corner. The site is roughly rectangular in shape and is located on a slope which falls north and south, with a 14.5m fall across the site. The site is bordered by Station Road which runs along the southern boundary where it meets a crossroads with Ellens Road, Cold Blow and Cross Road. The boundaries along Cross Road comprise sections of hedgerow or are open onto the adjacent fields. The eastern boundary is formed of garden boundaries with properties off Sydney Road backing onto the site with some tree planting. The northern boundary is largely formed by the residential garden boundaries on Cross Road and Lydia Road and is mixed, consisting of various forms of wooden fencing and landscaping.

1.2 The northern and eastern boundaries abut the settlement confines (identified in the CS) and the rear gardens of adjacent properties with a mixture of property styles and ages; these comprise mostly two storey dwellings and some single storey properties. To the south, on the opposite side of Ellens Road/Station Road, is open farmland with no defined field boundaries. To the west (on the other side of Cross Road) is open agricultural land and a small group of buildings and tree screen. The site is in Flood Zone 1 and is situated within a Groundwater Source Protection Zone 1 and located upon a Principal Aquifer.

#### The Proposal

1.3 The proposed development is a resubmission of a previous application that was refused following a committee resolution (Ref: DOV/19/00642). The application is an outline planning application for the erection of up to 100 new dwellings and associated works which includes access roads and the provision of open space, including a community orchard, proposed play area and attenuation pond. Only details of the access have been provided at this stage with landscaping, appearance, layout and scale of the units to be reserved for future consideration.

Indicative site layout plans have been provided which show the main features of the site and a single junction onto Cross Road. The site is 3.94 hectares with a developed area of 2.74ha and a proposed density of 36 dwellings per hectare. 30% affordable housing is proposed.

- 1.4 Indicative images have been submitted which provide an indication of the expected form of the development. The proposed site layout identifies new tree planting along the principle access roads, the retention and enhancement of existing landscaping and some hedgerows with a footpath through and around this area to link with existing footpath connections. An attenuation or balancing pond to deal with SuDS is located to the southwestern corner of the site. Public open space and a proposed community park and play area are located towards the southern and western boundaries of the site.
- 1.5 Off-site highway works are also proposed on Station Road and Cross Road and include the provision of new road markings and double yellow lines. A small number of on-street car parking spaces will be lost as a result.
- 1.6 The following documents have been submitted in support of the planning application:
  - Development Framework
  - Design and Access Statement
  - Planning Statement inc. Affordable Housing Statement
  - Landscape and Visual Impact Assessment
  - Transport Assessment and Framework Travel Plan
  - Ecological Assessment
  - Arboricultural Assessment
  - Ecological Appraisal
  - Phase 1 Preliminary Risk Assessment
  - Flood Risk Assessment and Foul Drainage Analysis Report
  - Air Quality Screening Report
  - Noise Assessment
  - Built Heritage Statement
  - Archaeological Desk Based Appraisal
  - Utilities Appraisal
  - Soils and Agricultural Land Quality Report
  - Statement of Community Involvement
  - Socio-Economic Report

## **2. Main Issues**

- 2.1 The main issues to consider are:
  - Background
  - Principle of Development
  - Impact on the landscape and Visual/Rural Amenity
  - Air Quality
  - Highway Matters
  - Affordable Housing and Dwelling Mix
  - Impact on Residential Amenity
  - Impact on Riding School
  - Impact on Level Crossing
  - Drainage and Flooding
  - Ecology
  - Appropriate Assessment

- Planning Contributions
- Other Material Considerations
  - Archaeology and Heritage Assets
  - Land Contamination

## **Assessment**

### **Background**

- 2.2 This application is a re-submission of DOV/19/00642 for the same proposal that members resolved to refuse on 2<sup>nd</sup> July 2020. The 2019 application was reported initially to Planning Committee on 16<sup>th</sup> January 2020 and deferred for a Members Site Visit on 11<sup>th</sup> February 2020. The issues to be considered at the site visit were related to the off-site highway works, the impact on the riding school, the highway works to Station Road and the associated impacts on nearby residential properties and to highway safety.
- 2.3 The application was reported back to the 13<sup>th</sup> February Planning Committee where KCC Highways and Transportation also attended and detailed discussions took place in relation to highway matters. Following discussions, Members recommended that the application be deferred to seek the views of The British Horse Society in relation to the impact on the riding school and the safety of the horses. On 2<sup>nd</sup> July 2020 Planning Committee resolved to refuse permission for the reasons set out below and the decision was issued on 9<sup>th</sup> July 2020.
- 1) *The application has not clearly demonstrated that the development, when taken cumulatively with other committed developments within Deal, would not result in detriment to the air quality in the local area as a whole, particularly at key road junctions which would be impacted through additional traffic.*
  - 2) *The proposed development of the site with the quantum of housing proposed will adversely affect the character and visual amenity of the surrounding countryside on this prominent and sloping site, contrary to policy DM15 of the Dover District Council Core Strategy (2010) and paragraph 170 of the NPPF (2019).*
- 2.4 The applicant subsequently advised the Council and the Planning Inspectorate (PINS), through service of a formal notice, of its intention to submit an appeal against the decision by the end of September. The applicant suggested the appeal be determined by way of public inquiry and PINS have agreed the appeal should be determined at a public inquiry.
- 2.5 On 2<sup>nd</sup> September 2020 a confidential report was considered by Members at Planning Committee, following further advice from DDC Environmental Protection and the seeking of an opinion from Counsel on the strength of the two reasons for refusal. Officers recommended to the Planning Committee that the following position should be adopted:
- 1) *The Council will not defend the appeal on the basis of the stated reasons for refusal, because it accepts that the decision reached by the Committee was not supported by evidence.*
  - 2) *The Council will attend any appeal (or submit representations as appropriate) only to assist the appointed Inspector in the discharge of their functions.*
  - 3) *Council officers shall seek an agreement with the applicant that if the Council does not defend its reasons for refusal they will not make an application for costs.*

- 2.6 Members of Planning Committee resolved to uphold this position. An appeal was subsequently submitted by the applicants and a public inquiry date has now been set by PINS for 28<sup>th</sup> February 2021. The Council has advised PINS that it will not be putting forward evidence or defending either ground for refusal at the appeal. The applicants have therefore submitted this application in advance of the inquiry to seek outline planning permission for the proposed development that would enable the appeal to be withdrawn.
- 2.7 This application is therefore a resubmission of the previously refused application (DOV/19/00642) for outline planning permission for 100 dwellings and associated works including the off-site highway works proposed. This report therefore pulls together all the matters previously discussed under DOV/19/00642 and sets out the current planning assessment taking all the relevant material considerations into account.

#### Principle of Development

- 2.8 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. In this case, it is considered that the policies which are most important for determining the application are DM1, DM11 and DM15 of the Core Strategy.
- 2.9 The site lies outside of the settlement boundaries, where Policy DM1 states that development will not be permitted on land outside of the confines, unless it is specifically justified by other development plan policies or it functionally requires such a location or is ancillary to existing development or uses. Having regard to the wording of this policy, the erection of dwellings in this location is, by definition, contrary to Policy DM1.
- 2.10 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. Although the site is outside the current defined settlement confines, it is adjoining and it is within walking distance of a number of local facilities. On this basis it is considered that the occupants of the development could access necessary day to day facilities and services. As such, whilst technically contrary to Policy DM11, the location of the site is considered to foster a sustainable pattern of development, which is the overarching intention of Policy DM11, as set out in the paragraphs which precede the policy.
- 2.11 Policy DM15 requires that applications which result in the loss of countryside, or adversely affects the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would result in the loss of countryside, as the site is outside the confines. It is considered that the development would have only a limited impact on the adjoining character and appearance of the countryside which is further mitigated by the proposed landscaping and form of the development, a detailed justification of this position is discussed in more detail below. It is considered therefore, that the proposal is contrary to the first part of Policy DM15 (loss of countryside) but is in line with the second part of Policy DM15 (whether harm is caused).
- 2.12 However, notwithstanding the primacy of the development plan, paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year housing land supply or where the LPA has 'failed' the Housing Delivery Test (75% or less), permission 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 (known as the 'tilted balance') or where specific policies in the NPPF indicate that development should be restricted.

- 2.13 Having regard for the most recent Annual Monitoring Report 2019/20, the Council is currently able to demonstrate a five-year housing land supply and the Council have not 'failed' the Housing Delivery Test (92%).
- 2.14 The current Core Strategy policies and the settlement confines referred to within the policies 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 629 dwellings per annum. As a matter of judgement, it is considered that evidence base underlying Policy DM1 is out-of-date and the current blanket ban on development immediately beyond the urban confine is in tension with the NPPF. As such, the policy should carry only limited weight. While Policy DM11 broadly accords with the NPPF's aim to actively manage patterns of growth to support the promotion of sustainable transport, the blanket approach to restrict travel generating development outside of settlement confines is inconsistent with the NPPF. The policy is partially out-of-date and should therefore be afforded limited weight. Policy DM15 seeks to resist development that would result in the loss of, or adversely affect the character or appearance of the countryside. This is broadly consistent with the NPPF, although the objective to refuse development resulting in the loss of countryside would be at odds with the NPPF. Parts of policy DM15 therefore are not up-to-date and it's considered therefore that the policy should be afforded less than full weight. Given how important Policy DM1 is and in view of the tension between policies DM11 and DM15 and the NPPF, it is considered that the 'basket of policies' which are most important for determining this application are out-of-date.
- 2.15 The 'tilted balance' identified in paragraph 11 of the NPPF is therefore engaged. An assessment as to whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the development therefore needs to be undertaken and whether there are any other material considerations that indicate permission should be approved.
- 2.16 It should be noted that an even earlier outline planning application on a much larger site for 235 dwellings ref: DOV/17/0505 was refused under delegated powers. This was refused on a number of grounds including being contrary to policy DM1 and outside the settlement confines. However, this was determined before the current NPPF, where the national policy position was changed in respect of new residential development. As policy DM1 is now out of date, paragraph 11 of the NPPF applies. The application therefore needs to be assessed against paragraph 11 of the NPPF and specifically - permission 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 where specific policies in the NPPF indicate that development should be restricted.
- 2.17 There are no policies that indicate development should be restricted as the site has no landscape or other designations. Permission should therefore be granted unless there is any clear harm that would significantly and demonstrably outweigh the benefits of additional housing development in the district. This report identifies that the proposed development and has been found to be acceptable in all other material considerations. It is therefore an acceptable form of development for this site and is recommended for approval as it meets the overarching objectives of the framework, set out in the NPPF, as a whole.
- 2.18 In addition, the applicants have also identified their position in terms of the development being sustainable and the under delivery of housing sites. As referred

to above, the Council has a 5-year supply of housing that can be delivered, however, there is also a need to provide additional housing sites in the new local plan. As no significant harm has been identified, it is therefore appropriate to approve acceptable proposals for housing within the district. A more in depth discussion of the Council's housing land position and its deliverability is not, therefore, required at this stage in respect of this application.

- 2.19 In terms of sustainability, this is defined in the NPPF and the assessment of sustainability can be separated into three dimensions: economic, social and environmental. The applicant has presented a case that the provision of housing will provide additional benefits to the local economy and boost the local economy. The Core Strategy and the Councils Corporate Plan 2020-2024 set out the broad DDC objectives that include delivering additional housing to broaden the range and quality of the housing market in the District. Whilst it is agreed that encouraging inward investment should carry some weight these need to be weighed against the benefits and disbenefits of the development, as a whole.
- 2.20 The applicant has also advised that the development would create direct and indirect jobs during the construction phase of the development and have further identified that the development could provide local residents employed in its construction. The development would also increase annual spending following completion. The employment which could be generated by the development therefore adds further weight in favour of the development.
- 2.21 It is further advised that the development would deliver a New Homes Bonus and provide additional council tax payments. The LPA must have regard for local financial considerations, as far as they are material to the application. However, the Planning Practice Guide identifies that it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body. Therefore, this is not a material consideration and cannot be attributed weight. The development would however provide a 30% contribution towards affordable housing which is sought by Policy DM5 and is a significant material consideration. The development would increase the local population and, accordingly, spending power.
- 2.22 With regards to the social role, the development would provide additional dwellings, which would contribute towards the Districts housing supply and would accord with the aim of significantly boosting the supply of housing. However, this benefit is qualified by the Councils ability to demonstrate a housing land supply. Turning to the environmental role, the proposed development mitigates the visual impact on the landscape, subject to conditions that also provide ecological and biodiversity enhancements, as required by the NPPF.
- 2.23 The applicant's points, although not determinative on their own, add further weight to the recommendation for approval and need to be assessed as material considerations in its favour, notwithstanding the policy position. The development is in tension with the parts of the development plan which provide 'blanket' restrictions on development outside of confines, however, these elements of policies are considered to conflict with the NPPF. The development would broadly accord with the overarching aims of the Core Strategy and accords with the NPPF and is therefore considered acceptable on this site. This policy position has not changed since the consideration of DOV/19/00642.

#### Impact on the Landscape and Visual/Rural Amenity

- 2.24 In terms of the impact on the wider landscape policies DM15 and DM16 of the Core Strategy are most relevant. Policy DM15 relates to the protection of the countryside and states that development that would result in the loss of, or adversely affect the character or appearance, of the countryside will only be

permitted if it is in accordance with allocations made in Development Plan Documents or the development justifies a rural location.

Policy DM16 relates to landscape character and 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 mitigation measures to mitigate the impacts to an acceptable level.

2.25 The site is not situated within a designated landscape but consideration of the impact on the existing landscape, its character and visual amenity is necessary to ensure the proposed development does not affect the character of the wider landscape and countryside. It is also necessary to consider paragraph 170 of the NPPF that relates to the need to enhance the natural and local environment, ecology, biodiversity and the importance of the intrinsic character and beauty of the countryside.

2.26 A Landscape and Visual Impact Assessment (LVIA) has been submitted in support of the application which identifies that the impact on the character of the landscape will be Minor to Moderate Adverse, as all of the existing landscape features are to be retained and enhanced. Local views are considered to be limited due to existing landscape features and there are some long-distance views, but these are not considered to be significant with the proposed tree planting mitigating any long-term effect. The impact on the visual amenity from residential receptors will, however, be significant and is identified as Major Adverse, due to the development on a previously undeveloped site. There is considered to be a limited impact on public footpath users overall due to the context of the site and the existing group of trees. Any impacts from lighting are considered to be localised and mitigated by existing and proposed tree planting, plus being set against the backdrop of the urban environment. To conclude the report identifies there will be some inevitable adverse landscape and visual effect but these would be localised and limited in their extent. The development is therefore appropriate for its landscape context and would not give rise to any unacceptable long-term landscape impact or visual harm.

2.27 Due to the location of the site, being outside the defined settlement boundary and the potential for harm to the local landscape, it was considered necessary, prior to determination of DOV/19/00642, to seek independent advice from a landscape consultant. A landscape consultant was appointed by DDC to undertake a landscape assessment, advise on the submitted LVIA and assess whether there was an unacceptable level of harm on the landscape, as a result of the proposed development. The consultant undertook a rigorous assessment of the local character of the area, (both immediately adjoining and long-distance views) and his conclusions are set out in the consultation section above. This confirmed that the impact on the landscape as a result of this development is acceptable and that no significant landscape or visual issues would arise should permission be granted, subject to the mitigation measures and green infrastructure put forward being fully implemented.

2.28 In terms of whether the proposal would be compliant with policies DM15 and DM16 the consultant's report states:

*"Does the proposed development result in the loss of, or adversely affect the character or appearance, of the landscape/countryside?"*



As detailed in applicant's LVA, no major adverse have been identified on the landscape as a result of the proposed development. The most noticeable landscape effects would be on the site and site and its immediate setting where a *Moderate Adverse* effect is predicted on completion, reducing to *Moderate to Minor Adverse* once new planting matures. These findings are considered to be a reasonable and balanced assessment and to this end, broadly comply with policies DM 15 and 16."

- 2.29 In respect of the proposed mitigation measures the proposal incorporates a landscape buffer on the western and southern boundaries of the site, especially along the western boundary where further enhancement through tree and hedge planting and associated green space is proposed, (along with development set back along this boundary). Although landscaping is reserved for future consideration it is necessary to ensure at this stage that the landscape mitigation would incorporate both native planting and biodiversity gains appropriate to the landscape character and site. The proposed landscaping identified adequately addresses the need for landscape screening and mitigation on site and accords with the requirements of policies DM15 and DM16. Any visual impact is therefore mitigated on the wider landscape and adjoining countryside, as required by policies DM15 and DM16. The proposed landscaping should be controlled through appropriate conditions to ensure such measures are carried through to the reserved matters stage. It should be noted that without these mitigation measures the proposal may not have an acceptable impact on the landscape.
- 2.30 Following detailed discussions with the applicant under DOV/19/00642 and concerns expressed regarding the impact on the riding school, it was set out by the applicant that the landscaping on the southern boundary could be undertaken in advance of a large proportion of the built development on the site. The indicative site layout identifies a landscaped buffer and open space to the southern section of the site and the applicants offered their agreement to a legal obligation requiring the open space and landscaping to be provided before occupation of 70% of the site. This therefore brings forward the provision of the strategic landscaping in advance of an expected build rate on residential developments and this can be further secured under the Section 106. The provision of this landscaping at an earlier stage of development also provides landscape mitigation at an earlier stage and further minimises the impact on the landscape and rural/visual amenity, therefore reducing the visual harm over the time period set out in the applicants LVA.
- 2.31 Furthermore, the massing of the development, as shown on the indicative site layout, has also been significantly set back from all boundaries, particularly along the western boundary, which reduces further the visual impact on the adjacent landscape. The indicative layout therefore confirms that the development of this site can be appropriately sited in this regard and can mitigate the impact on the landscape and countryside. In terms of the height of the proposed dwellings the maximum height of the proposed dwellings is set out to be up to two and a half stories, which is a reasonable expectation. Nevertheless, it is considered that the height of the resultant dwellings should be controlled by a condition to require the proposed ground levels, sections through the site/buildings and details of the finished heights of the proposed buildings. This is to ensure that the height of the proposed dwellings on this sloping site are appropriate and acceptable in respect of the visual amenities of the landscape.
- 2.32 It is therefore considered that the scheme does not give rise to unacceptable adverse impacts on the visual amenity of the site and immediate surrounding landscape. As such the proposal is in accordance with Policies DM15 and DM16 of the Core Strategy and paragraphs 170 and 172 of the NPPF, as no significant harm has been identified that could justify a reason for refusal.

- 2.33 This Officer assessment was also supported by Counsel advice obtained in respect of whether the landscape harm reason of refusal, identified by Members in relation to DOV/19/00642 could be defended at an appeal. The legal view was that there was little evidence of any identified harm and the reason for refusal was unlikely to be upheld by an Inspector at appeal. A view supported by an independent Landscape Consultant appointed by DDC. The NPPF test, set out in Paragraph 11, relating to demonstrable harm could not therefore be met and, as a result, the NPPF directs that permission should be approved without delay.

#### Air Quality

- 2.34 The impact on air quality at key junctions within Deal was the second reason for refusal, identified by Members at the 2<sup>nd</sup> July 2020 Planning Committee and the evidence available to support this position was considered and discussed in some detail with Members, prior to reporting that this reason for refusal could not be defended by DDC at an appeal.
- 2.35 An Air Quality Screening Report (was previously and) has been submitted with the application which identified that due to the existing air quality levels and data for the area, the impact during the construction and operational phase is unlikely to be significant or exceed current standards. DDC Environmental Health (EH) in their initial response for the proposed development concurred with the findings and raised no objection, subject to appropriate conditions. Given the location and characteristics of the site, having regard for the Kent and Medway Air Quality Guidance Documents and in line with best practice, it is expected the installation of EVC points should be required for this application. Details for the provision of any charging points should be required by planning condition. Along with measures to prevent dust for residential receptors and appropriate dust mitigation measures that can be controlled through a construction environmental management plan condition. It is generally accepted that air quality levels, once construction works are complete, are unlikely to exceed any agreed objectives and are acceptable for the proposal with no further measures required.
- 2.36 When officers were drafting the final wording of the AQ reason for refusal (in respect of DOV/19/00642) further advice was sought from EH on air quality matters. Their original advice concurred with the applicant's screening report, that identified that a full air quality assessment was not required to support the application, as the best available data suggested that air quality in the local area was not at a level that would necessitate such an approach. In clarifying its position EH advised:

*“In terms of relevant figures, the Wardell Armstrong report identifies the existing Nitrogen Dioxide (NO<sub>2</sub>) background levels at the Cross Road site as **9.42** ug/m<sup>3</sup>. This figure is published by Defra and is typical of rural annual average low background areas. NO<sub>2</sub> levels near to busy roads in Deal are in the region of **18.5** ug/m<sup>3</sup> (Deal – Sandwich road A258) possibly a little higher in Deal town centre.*

*Areas where the NO<sub>2</sub> level approaches **40** ug/m<sup>3</sup> at a residential façade means an Air Quality Management Area would need to be declared (Defra guidance). Air Quality for the operational phase of a development would only be a consideration if the development caused an increase in levels such that an AQMA would need to be declared **or** if the development interfered or affected the Council's AQ Action Plan.*

*In this case guidance from IAQM was referred to in the application and due to:-*

*a) the existing NO<sub>2</sub> levels and*

*b) the number of Annual Average Daily Traffic figures as a result of the development falling below the criterion requiring an AQ Assessment the AQ screening report was accepted.*

*Clearly there will be a slight increase in road traffic on roads in the immediate of the development but would most likely increase NO<sub>2</sub> levels by about 1 ug/m<sup>3</sup> only (opinion) on nearby roads.”*

- 2.37 The NPPF sets out the approach that should be taken in relation to air pollutants when determining applications at Paragraph 181 and identifies that decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of AQMA's and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should also be identified.
- 2.38 The application site does not lie within an AQMA, nor is there any such designation in the vicinity of the application site. The nearest AQMA is found in Dover, roughly 10km away. The best data available suggests that the level of pollutants of concern, nitrogen dioxide (NO<sub>2</sub>) and fine particulate matter (PM<sub>10</sub>), are significantly below the relevant limit values and that this development, even in conjunction with other planned developments in the area, will not bring these values close to levels of concern. It is, therefore, considered that the NPPF does not support the AQ reason for refusal as the evidence available suggests that the development (alone or cumulatively with other nearby developments) will not compromise the objective of sustaining or contributing to compliance with the relevant limit values and national objectives.
- 2.39 As members will be aware, the Council is currently reviewing its Local Plan and will be seeking to capitalise on opportunities to improve air quality as the NPPF encourages. On the basis of the above reasoning there is significant concern that a reason for refusal could not be defended at appeal as there is no evidence to support this position. For these reasons, and further supported by Counsel advice, officers are of the view that the development would be acceptable in relation to air quality matters and the proposal accords with the NPPF and other national guidance in respect of air quality considerations.

#### Highway Matters

- 2.40 The relevant Core Strategy policy is DM11 and to a lesser degree policies DM12 and DM13. DM11 requires planning applications for development that would increase travel demand should be supported by a systematic assessment to quantify the amount and type of travel likely to be generated and include measures that satisfy demand to maximize walking, cycling and the use of public transport. Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. Development that would generate high levels of travel will only be permitted within the urban areas in locations that are, or can be made to be, well served by a range of means of transport.
- 2.41 The application site is situated on the south western settlement boundary with Deal/Walmer. Details of the proposed access to the site have been submitted in full. The proposed development is likely to generate approximately 58-62 two-way vehicle movements in the morning and evening peak hours, (with these figures above expected levels). A vehicular access junction has been proposed, located fairly centrally along the Cross Road frontage. The proposed junction would be 5.5m wide, widening to a bell-mouth junction of 6m, with a 2m wide footpath on either side. Off-site works include the widening of Cross Road to 6m and a new 2m wide footpath on the application side of the widened road, linking up to the existing footpath on Cross Road.

- 2.42 Station Road is also proposed to be widened to enable two-way traffic along the southern boundary and a new footpath of 1m to link up with the existing footpaths on Station Road. Further east Station Road is to be better controlled as a single way section with directional signage and road markings. The upgrading of pedestrian crossing facilities at the junctions with St Richards Road and Station Drive are also proposed. The nearest train station is in Walmer which is sited 0.6km from the application site and could be reached by foot. The site is currently not served by public transport but is within easy walking distance of a number of facilities.
- 2.43 Whilst the proposed layout is indicative and only the means of access is being considered at this stage, footpaths are proposed on the side of Cross Road and Station Road along with a number of other footpaths on the site. There are footpath links proposed to the wider area and it is noted there are currently no footpaths or street lighting along sections of Station Road and Cross Road with enhancement proposed. Station Road would provide the main footpath link with Walmer train station and wider bus routes. The proposals provide connections to the existing townscape and adjoining built form and encourages walking.
- 2.44 KCC Highways initially raised concerns in respect of DOV/19/00642, as various matters needed to be considered further and addressed, including off-site highway works and further clarification of traffic safety measures. In response to these concerns, additional off-site highway work details were submitted and were considered to be acceptable. These works were also discussed in detail at the members site visit for DOV/19/00642, on 11<sup>th</sup> February 2020. This also focused on the Station Road works, in particular, near the riding school. On assessing the works that would take place a number of conditions were suggested to ensure the works considered a number of specific factors and also that the works are partially implemented prior to construction works commencing on site, in the interests of highway safety and the free flow of traffic. On further consideration of the specific wording it is suggested the following conditions are included in the recommendation:
- Prior to the commencement of construction on site, the off-site highway works shown on plan numbers ( xx) shall be implemented in accordance with a detailed highway works phasing strategy to be submitted and approved by the local planning authority, this shall include details of measures to provide a dropped kerb to enable parking to 112 and 144 Station Road. The agreed phasing strategy shall be implemented accordingly.*
- Development shall not be commenced until all reasonable endeavours have been undertaken to implement a Traffic Regulation Order (TRO) adjusting and prohibiting on-street car parking in the vicinity of Station Road, Sydney Road and Cross Road. A scheme indicating the extent and full details of the TRO shall be submitted to and approved by the local planning authority.*
- 2.45 At the 13<sup>th</sup> February Planning Committee (following the site visit in considering DOV/19/00642), further discussions and measures were discussed in relation to the safety of horses using Station Road/Ellens Road. KCC Highways stated that the proposed off-site highway works along this stretch of road would result in the reduction of vehicle speeds (from the current 60mph) as the 30 mile per hour restriction would be significantly extended to the junction with Cross Road, along with the widening of the road along this section resulting in increased visibility to the east. It was also advised that the riding school would be able to cross the footpath proposed outside the riding school with their horses and it is considered reasonable to install road signage to advise of the need to slow down, due to the

use of the road by horses. A further condition is therefore suggested to this effect and is included in the list of suggested conditions.

- 2.46 Given the detailed discussions relating to the highway works and the imposition of detailed conditions and controls under ref DOV/19/00642, it is considered that previous highway concerns expressed by Members would, to a sufficient degree, be addressed. It is not considered that the proposal would result in a severe highway impact and as previously advised by KCC Highways, would accord with the aims and objectives of paragraph 109 of the NPPF as well as local standards and planning policies. Members are advised that all of the issues agreed in those former discussions have been set out in the submission, these have all been agreed by the applicant to be brought forward under this application now being considered.
- 2.47 Highways England did raise initial concerns regarding the impact of the proposed development on the strategic highway network but further details on this element have been submitted and they have removed their holding objection. They have confirmed that the proposed works are acceptable on the highway network and do not raise capacity or highway safety concerns.
- 2.48 Significant concerns have also been raised by the Parish and Town Councils and third parties that the development would significantly and detrimentally increase and impact on traffic volume and highways in the area that are identified as already struggling to cope with existing levels of traffic locally. There is also concern that the proposal would cause further access difficulties onto Dover Road from the Station Road junction, resulting in further capacity and highway safety issues. A high level of concern is also raised over the narrowness of the more immediate local highway network, including sections of Cross Road and Station road which already cause significant local concern and car parking issues. In addition, a local resident has identified that highway land identified along Station Road is not highway land and is in private ownership. It has been advised that this is a matter to be addressed separately by the two parties.
- 2.49 It is however considered that with appropriate conditions and controls in place these concerns would, to a sufficient degree, be addressed. On balance, it is considered that the proposal would not result in a severe highway impact and would therefore accord with the aims and objectives of paragraph 109 of the NPPF as well as local standards and planning policies, it is therefore acceptable on highway grounds.
- 2.50 Policy DM13 of the Core Strategy requires that the provision of car parking should be a design led process and based upon the characteristics of the site. Whilst the layout of the development has not been submitted at this stage, the indicative details demonstrate that car parking can be provided in association with the proposed dwellings. At this stage, details of car parking provision have not been provided, although the submitted Transport Assessment confirms that such provision will be made in accordance with KCC guidance. Having regard for the density of the development, it is considered that the site is capable of providing the necessary car parking, subject to acceptable details at the Reserved Matters stage.
- 2.51 In addition, to further address concerns relating to the riding school and the safety of the horses associated with large HGV's and construction vehicles using Station Road to access the site, clarification on the proposed route of construction traffic was sought from the applicants under DOV/19/00642. It was clarified and anticipated that Cross Road would be the main route to the site for construction vehicles. This was expected due to the low railway bridge on Station Road. A Construction Management Plan (CMP) condition is proposed to be added that would have required this information in full and at a later date, however, these details have been provided in advance to address the above concerns. This does

not remove the need for full details in all respects, including timings, signage, working hours etc to be provided under a condition. Nevertheless, this position has resulted in a large number of objections to the use of Cross Road for this purpose. In terms of whether the road is wide enough and turnings at junctions can be made by HGV's, the Transport Assessment submitted with the application has taken this into account. KCC Highways were also mindful of these aspects of the proposed developments in making their formal comments. No objections have been raised in relation to highway matters relating to this development and on this basis the proposed development is considered to be acceptable, subject to the planning conditions set out in this report.

- 2.52 In conclusion, the highway issues considered in relation to this proposed development (including all the detailed considerations under DOV/19/00642) are to be fully implemented and are sound, from both highway safety and capacity perspectives. They fully accord with paragraph 109 of the NPPF and are therefore acceptable. There is therefore no highway grounds to refuse this planning application.

#### Affordable Housing and Dwelling Mix

- 2.53 Core Strategy Policy DM5 and the adopted SPD require that for schemes of this scale, the Council should seek an on-site provision of 30% affordable housing. The applicant is proposing to provide the required 30% affordable housing, which amount to 30 dwellings. The affordable units should be designed and positioned in small clusters and be tenure blind. The Council would seek 70% of the affordable units to be provided as affordable rented homes with the balance provided as shared ownership units. It is considered that, subject to being secured through a condition or in a section 106 legal agreement, which would require further details of the provision and tenure, the development could accord with Policy DM5 of the Core Strategy and the Affordable Housing SPD. Further details of the affordable housing provision would be considered at the Reserved Matters stage, subject to viability and design considerations. The proposal therefore responds to the need for affordable housing through the provision of policy compliant affordable housing for local people.
- 2.54 The latest Strategic Housing Market Assessment (SHMA) identifies the broad split of demand for market housing to meet the prioritised needs of the district. Whilst these recommended proportions should inform the housing mix, they are however not rigid. At this outline stage limited indicative details of the dwellings have been provided and any reserved matters application would need to be considered in line with the needs identified in the SHMA.
- 2.55 Policy CP4 of the Core Strategy requires applications for residential development for 10 or more dwellings to identify the purpose of the development in terms of creating, reinforcing or restoring the local housing market in which it is located and develop an appropriate housing mix and design, taking into account the guidance from the SHMA. It also identifies the need to create landmarks, foreground and background buildings, vistas and focal points in the layout of sites. It is noted that some of these aspects have been considered in the supporting documents. The policy also identifies a need to provide an appropriate density for development sites which will be design led and determined through the design process at the maximum level consistent with the site. Policy CP4 guidance is for a density wherever possible to exceed 40 dwellings net per hectare and will seldom be justified at less than 30 dwellings per hectare. The proposed development proposes a net density of 36 dwellings per hectare which is at the mid-point of the density level required under CP4 and is considered appropriate in relation to the character of this part of Deal. At the local level the mix and indicative design of the units is considered appropriate for this edge of settlement location.

- 2.56 In considering appearance, design and layout of the scheme, consideration has been given to the principles contained within the Kent Design Guide and Building for Life 12 that both support good design.

#### Residential Amenity

- 2.57 The precise location of the new build dwellings is unknown at this stage, with this element being submitted in outline. However, the proposed access roads have been submitted in full and will inform the final location and layout of these dwellings. Consequently, the final layout, which will be the subject of an application for approval of reserved matters, would be likely to closely align with the layout shown on the indicative plan. This plan demonstrates that the proposed development can be accommodated in a manner which would ensure that reasonable separation distances between new and existing properties and reasonable a standard of accommodation can be achieved. Given the location of the site and the separation distances to other properties, it is considered unlikely that the living conditions of any properties would be harmed unacceptably by the development but a detailed assessment would form part of any reserved matters application and would need to ensure that all measures to minimise the impact on existing properties backing onto the site, along the northern and eastern boundaries, are mitigated from any detrimental impact on their residential amenities.
- 2.58 Whilst the living conditions of the proposed new build dwellings cannot be established at this stage, the size of the site and the density of the development are more than sufficient to demonstrate that the proposed dwellings could be accommodated in a manner which would ensure a high standard of accommodation, particularly when regard is had for the indicative layout of the development. It is considered that the living conditions of occupants of the dwellings could be acceptable.
- 2.59 The development has the potential to cause unacceptable harm to the amenities of neighbouring properties during the construction phase and a construction management plan should be required by condition to mitigate this potential harm. The construction management plan would limit the construction hours, provide dust management and ensure that mud is not deposited on the public highway. No concerns is raised in relation to noise and disturbance following occupation and given that the scale and nature of the proposed uses, it is not considered that an unacceptable degree of noise and disturbance would be caused.
- 2.60 Notwithstanding the above, parts of the proposed site are likely to need acoustic ventilation for windows due to potential exceedance of recommended indoor noise levels with windows open, which has the potential to cause noise and disturbance to future occupiers. The application has been supported by a Noise Assessment, which concludes that, without mitigation future occupiers of the development are likely to experience impacts from road noise with windows open for units in close proximity to adjoining roads. Therefore, proposed dwellings in these areas would need acoustic ventilation to living room and bedroom windows as a necessary mitigation measure. Consequently, this has been identified and can be addressed through a condition as suggested by EH and the siting of units will need to be considered in more detail at any reserved matters application.

#### Impact on the Riding School

- 2.61 The previous application (DOV/19/00642) was deferred at Planning Committee to enable comments to be received from The British Horse Society in relation to the impact on the riding school and the health and safety of the horses. The society were consulted on both application but no response has been received. Due to the nature of the concerns raised under DOV/19/00642 it was considered that

specialist advice needed to be sought to enable the impact on the horses and the riding school to be appropriately assessed.

- 2.62 A specialist legal equine planning consultant was therefore identified and advice was sought in respect of the impact on the riding school and horses as a result of the proposed development (under DOV/19/00642). On appointment of the consultant full background information was provided to enable an opinion to be offered. As the consultant was based in Cheshire it was not considered necessary for a site visit to be undertaken as most of the information was available electronically. In addition, the appointment took place at the start of the COVID 19 outbreak and a site visit would have breached government advice on non-essential journeys, at that time. It was therefore not reasonable or proportionate to require a site visit. The advice was made publicly available.

The conclusion states:

*“Due to the distance of the proposed construction area of the development site, to the north, and due to the particular type of horses that I would anticipate are used for teaching, I would not expect the business to be unduly affected during either of the construction phase or post development.”*

- 2.63 The opinion was based on the construction phase of the development and post-construction phase and considers the horses welfare, rider safety and impact on business. These views are also based on the indicative site layout plan which identifies a landscaped buffer and open space to the southern section of the site. At this stage of the consideration of DOV/19/00642, the applicants also offered their agreement to a legal obligation requiring the open space and landscaping to be provided before occupation of 70% of the site. The opinion did not consider the impact of the proposed off-site road works.
- 2.64 On further discussions with the consultant it was advised that horses do not like visual changes or sudden noises, which can cause them to react badly and cause stress, that could affect both their welfare and the safety of riders. However, they do adapt over time, so once completed the proposed development is unlikely to cause an undue impact on the riding school. The construction phase has greater potential to cause stress and anxiety, due to visual changes and noise. There is some debate as to how much of the development site will be visible from the riding school, due to the intervening landscaping, however, the clarification from the applicants to implement the southern/strategic landscaping works prior to 70% occupation and the inclusion of this within the legal agreement would assist and further minimise the impact from the construction site.
- 2.65 In terms of the off-site road works, which are in much closer proximity to the riding school, the applicant clarified the expected duration of the works (under DOV/19/00642), as the road would need to be temporarily closed. These are expected to be undertaken within 4 weeks and it would be reasonable to assume that the riding school and the horses could be affected over this 4-week period, but once the works were completed the horses would be able to adjust to the visual changes.
- 2.66 Additionally, a construction management plan and an environmental construction management plan are included in the list of conditions. Combined these would seek to control the movement, routes and timing of construction traffic and the noise, working hours and overall management of the construction site. These conditions therefore seek to minimise the impact of the construction phase on existing/adjacent uses and their amenity. These measures would also seek to address some of the concerns from the riding school and the impact on the horses.
- 2.67 Further, under DOV/19/00642, the applicants also confirmed some of the basic details that would be covered in the construction management plan condition and



have confirmed they would expect that Cross Road would form the preferred route for construction vehicles, due to the railway bridge on Station Road. This would further reduce the potential for noise and disturbance from large vehicles travelling past the riding school.

- 2.68 On the basis of the evidence available and the controls and measures that can be put in place, through conditions and the legal agreement, along with the short period of time for the road works along Station Road, the impact on the riding school and the welfare of the horses has been minimised as far as practicable and beyond the standard requirements for similar types of development. Therefore, on balance, the development, including during the construction phase, along with the measures identified, will minimise disruption to the riding school. The overall impact on the riding school, the welfare of the horses and riders has therefore been found to be appropriate and acceptable from the proposed development. There is also limited evidence to suggest that there would be any long-term impact on this existing riding school business, which should be able to continue operating throughout the majority of the construction phase.
- 2.69 The owners of the riding school have raised a significant number of concerns regarding the determination and processes associated with the application and the need for the Landscape Consultant to reassess the site to take into account the impact from the riding school of the changes to the wider landscape. However, these concerns do not change the assessment of this application in terms of the consideration of planning policies set out in the NPPF Framework or the evidence available to come to these decisions. This application is a re-submission of DOV/19/00642 and as such the use of the same background supporting information and reports is entirely appropriate for the assessment of this application and therefore neither the Landscape Impact Report or the report of the Equine Consultant need to be revisited to fully determine this current application.

#### Impact on Level Crossing

- 2.70 The impact of the proposed development on the manual level crossing at Coldblow was also been raised during the consideration of DOV/19/00642, due to the potential for its increased use as a result of the proposed development. Network Rail were duly consulted on the planning application.
- 2.71 In respect of DOV/19/00642, initial concerns were raised by Network Rail regarding the potential for increased use of the manual level crossing and concerns in relation to increased development generally within the local area, along with recent safety concerns at the level crossing. As a result, a Level Crossing Impact Assessment was requested to assess the potential impact.
- 2.72 The applicants duly provided a Level Crossing Impact Assessment under DOV/19/00642 and Network Rail were re-consulted. The report identified a very limited material increase on the use of the level crossing as a result of the proposed development. The transport assessment submitted with the application also did not identify a material increase in the use of the level crossing and KCC Highways confirmed that they agree with this position, with a limited direct increase in the use of the manual level crossing as a result of this development.
- 2.73 Network Rail, however, raised further concerns and sought clarification. They identified that the appropriate option available to reduce the risk at Cold blow level crossing was an upgrade to a Manually-Controlled Barrier type level crossing which would cost in the region of £3 to £5m. This upgrade would remove the need for the public to manually open the gates. It was clarified that it was not expected that the full cost should be requested as a contribution. The applicants sought to clarify their position and confirmed the data was up to date and found to be acceptable as a result of the impact of the development on all other highway matters.

- 2.74 The consultation response was followed up by a letter from DDC to Network Rail in relation to the issues raised and to seek clarification on their formal position. Requests for contribution have to be backed by relevant evidence and have to satisfy the 3 tests in the CIL Regulations (2010) (as amended). No material increase in traffic is identified in the use of Coldblow Level Crossing as a result of this proposed development, (ie. no addition car movements and 4 pedestrian movements), it therefore cannot be necessary, directly related or reasonably related in scale and kind to the proposed development. It would therefore be unreasonable to request additional contributions to address what would appear to be an existing issue at the manual level crossing. Network Rail were advised that their views on the Local Plan Review would be sought at the Regulation 18 stage and could be fed into the formulation of any subsequent policies that may result.
- 2.75 Issues with the level crossing have existed for some time and are ongoing, it would therefore not be reasonably related to the development proposed as applications can not address existing situations. Without relevant evidence and planning justification it would not be appropriate to make requests for such planning contributions, unless a need related to the development has been identified. In respect of this planning application Network Rail confirmed their position in their consultation response and raised no objection to the proposed development.

### Ecology

- 2.76 In furtherance to the impacts on the off-site Ramsar/ SPA, regard must be had for whether the development would cause any harm to habitats or species on or adjacent to the application site, in accordance with paragraphs 170, 175 and 177 of the NPPF. In addition, regard must be had for Natural England's Standing Advice. The application was supported by an Ecological Appraisal which considers both the flora and fauna of the site and in addition reptile and bat species surveys.
- 2.77 The site consists of an arable field bounded with 2-5m wide margins of grassland or scrub. The semi-improved grassland and field margins have the potential to support reptile species due to their varied vegetation. The site therefore has habitats which could provide a potential for reptiles and high numbers of reptiles have been reported locally. A reptile survey has been submitted in support of this application and a low population of reptiles are recorded (2), as a result there is the potential for displacement to other parts of the site where suitable habitat is retained. It is noted that the application includes a significant amount of green infrastructure which may be sufficient to allow onsite displacement of reptiles.
- 2.78 In relation to bats, the report confirms that, the trees on the site do not contain features which would provide for roosting. However, the margins of the site and the hedgerows provide some potential for foraging and commuting. A Bat Survey has been submitted in support of the application that found the site was used for commuting and foraging.
- 2.79 There was no evidence of badgers using the site and the site is also considered to be unsuitable for other protected species. In respect of birds using the site, these may be nesting on site and safeguards can be put in place which could include additional surveys if construction work is undertaken during the bird breeding season. Such safeguards have been recommended and these could be conditioned.
- 2.80 There is therefore potential for a detrimental impact on protected species, however, the submitted species surveys recommend a series of mitigation measures, to ensure that the impacts on these protected species and biodiversity generally are minimised and enhanced and such measures can be controlled by suitable conditions. DDC Natural Environment Officer has confirmed that the findings of the submitted ecological appraisals are accepted and subject to the implementation of

the full mitigation measures identified and additional measures to encourage and enhance biodiversity across the site; there is no ecological constraint to development. All of these measures can be addressed through planning conditions.

- 2.81 There will be some loss of the hedgerow along the eastern boundary this is not significant to the wider area ecologically and the replacement hedge and tree planting will ensure the impact on the street scene is minimised. The proposed layout allows additional planting to provide a deeper landscaped area where new trees can be planted to the south western corner of the site. On the western site boundary the enhanced hedgerow and the new trees will provide a landscape 'buffer' between the site and the open landscape beyond. New planting will consist of a mix of native species which could be controlled by suitable conditions. Overall the proposals are acceptable in respect of the protection of ecology and protected species, landscape and conservation and enhancement of biodiversity which are considered to comply with the aims and objectives identified through the NPPF.
- 2.82 In respect of existing trees on the site these have been surveyed and an Arboricultural Assessment submitted. There are some mature trees located along the boundaries of the site, along with some hedgerow. No significant tree loss is proposed on the site, most existing trees and hedgerows on site are situated around the field boundaries and are to be retained. A proportion of hedgerow is proposed to be removed to enable highway access and the widening of Cross Road. A small group of trees on the boundary to the north are proposed to be removed to enable development, however it is proposed to plant a significant level of tree planting across the site with a long term management plan. It is considered that although there will be a loss of some trees these are not significant to the wider area and would therefore be acceptable. The impact on those to be retained and the necessary protection measures including root protection zones could be controlled by condition.

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

- 2.83 The impacts of the development are considered and assessed in this report. It is also necessary to consider the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.84 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.85 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves. The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 2.86 For proposed housing developments in excess of 14 dwellings (such as this application) the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy requires the applicant to contribute to the Strategy in accordance to a published schedule. This mitigation comprises several elements, including the monitoring of residential visitor number and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education).

Natural England has been consulted on this appropriate assessment and concludes the assessment is sound.

- 2.87 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed. A contribution of £6,066.43 is therefore sought to this effect.

#### Drainage and Flooding

- 2.88 The site lies within Flood Risk Zone 1, where there is the lowest risk of flooding. However, given the size of the site, it is appropriate to consider whether the development would be likely to lead to localised on or off-site flooding. The NPPF, paragraph 163, states that local planning authorities should ensure that flooding is not increased elsewhere, and priority should be given to the use of sustainable drainage systems. In furtherance to this, the Planning Practice Guidance states that sustainable drainage systems should be designed to control surface water run-off close to where it falls and replicate natural drainage as closely as possible.
- 2.89 The submitted Flood Risk Assessment, which includes an Outline Surface Water Drainage Strategy, confirms that due to ground conditions and soil composition (established following ground investigations) infiltration drainage is suitable on this site, subject to appropriate treatment of surface waters prior to discharge. Whilst the proposed drainage features, such as swales, would allow some infiltration, primarily water would be drained into a proposed attenuation pond which would then discharge into groundwater (Bedrock Aquifer) to replicate existing discharge features. The Lead Local Flood Authority (KCC) have commented that the submitted drainage strategy demonstrates that surface water can be adequately disposed of, however, in order to ensure that suitable discharge takes place and does not result in pollution to controlled waters, they have recommended conditions should be attached to any grant of permission requiring full details of the final drainage strategy, together with a timetable for its implementation and details of maintenance/verification, to be submitted to and approved.
- 2.90 The EA supports these comments and agrees that conditions are necessary to ensure the protection of the Groundwater Source Protection Zone and Principle Aquifer. Nevertheless, they have identified that the site may not be suitable for other forms of infiltration drainage due to controlled waters and the principal aquifer. Notwithstanding, they have raised no objection to the proposed development subject to conditions including no infiltration of surface water drainage without consent and contamination safeguarding. They have advised that, subject to these conditions the scheme is acceptable, however without such conditions an objection would be raised. Therefore, it is considered that, subject to appropriate conditions, the surface water drainage from the site would not be likely to cause localised flooding and could be suitably controlled. The proposed drainage measures for this outline proposal are therefore considered acceptable in principle at this stage, subject to conditions, further testing and details that would also be considered further at Reserved Matters stage.
- 2.91 It is noted that a high proportion of representations have identified that there is an issue with existing flooding on the highway (Station/Ellens Road) and the capacity of the existing public surface water system. It is expected this would be partly addressed by the proposed development, measures to retain all surface water on-site and would also form part of the necessary highway agreements in relation to

the highway works. Consequently, any detailed drainage layout should also address this matter and is not likely to add to any existing problems experienced.

- 2.92 Regard must also be had for the disposal of foul sewerage from the site. The application has been supported by a Foul Drainage Analysis which assesses the availability of foul sewerage provision in relation to development of this site. It identifies that there is an initial concern regarding the capacity of the existing foul sewerage system to accommodate this development and off-site works will be required. The report concludes that this is a matter to be dealt with through other legislation and should not form the basis of a planning condition.
- 2.93 Southern Water have undertaken capacity checks which have demonstrated that the existing foul sewer network does not have the capacity to meet the needs of the development without the development providing additional local infrastructure. It identifies the proposed development would increase flows into the wastewater system and as a result increase the risk of flooding in and around the existing area. In accordance with Planning Policy Guidance, Southern Water have therefore requested that a number of conditions could be attached to any grant of permission including a condition to require full details of the proposed foul drainage strategy, together with aligning the occupation of the units with the necessary network reinforcement works that would be undertaken by Southern Water. Such conditions are seen as necessary for this proposal and reasonable and would need to be addressed before works commence on site. The conditions would ensure that the development would cause no harm to the local sewerage network and would not increase the risks of flooding elsewhere, in accordance with paragraph 163 of the NPPF and Planning Policy Guidance. Consequently, subject to appropriate conditions, the proposed surface and foul water drainage strategy is acceptable in principle for development on this site.

#### Planning Contributions

- 2.94 The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (CIL Regulations) require that requests for development contributions of various kinds must comply with three specific legal tests, being necessary, related to the development, and reasonably related in scale and kind.
- 2.95 Policy CP6 of the Core Strategy requires planning applications to provide an appropriate mechanism to ensure that any necessary infrastructure to support the development can be secured at the time it is needed. This policy therefore confirms the need to address any increased infrastructure needs as part of the application process. Such needs would normally be addressed in a s106 legal agreement, as long as all provisions comply with the relevant tests outlined in the NPPF and planning policy guidance. It is considered that the tests have been duly applied in the context of this planning application.
- 2.96 In accordance with Policy DM27 of the LALP, the development would be expected to provide Open Space on site, or a contribution towards off-site provision, to meet the Open Space demands which would be generated by the development. Given the scale of the development, it would give rise to a need for 0.6094ha of accessible green space. The developer is proposing to provide 0.90ha, including the provision of public open space in the form of a Local Play Area (LAP), community orchard and informal recreation areas. The overall size of this combined open space is 1.20ha that provides adequate on site provision for this element of the open space requirements under policy DM27.
- 2.97 However, this space would not provide outdoor sports facilities and an outdoor sports requirement for this proposal would generate a need for 0.3212ha. It is not practical for this to be provided on site and there is a need to improve the pitch quality at Deal and Betteshanger Rugby Club. It has therefore been calculated that

a proportionate contribution of £45,879.54 is necessary towards this outdoor sports provision to be secured through a s106 agreement. With the payment of this contribution, the proposal would accord with Policy DM27 of the Core Strategy.

- 2.98 KCC Economic Development have advised that the development would increase demand for local facilities and services and where there is currently inadequate capacity to meet this additional need, contributions should be sought to provide infrastructure improvements proportional to meet the need generated. In this instance, KCC have advised that there is sufficient primary school provision at this stage and insufficient secondary school provision to meet the needs of the development.
- 2.99 This application would not give rise to additional primary school pupil spaces on this occasion and cannot be requested. Whereas a contribution of £3,324 per dwelling was requested from the previous application to meet the need identified at Deal Primary Schools. KCC has re-run their assessment criteria and calculations of the availability of capacity and a need has no longer been identified.
- 2.100 KCC have also requested a contribution of £4,540 per dwelling towards the expansion of Deal & Sandwich non-selective and Dover District selective schools, where there is an additional demand for 20 pupil spaces. Again, this request has been amended to take into account amendments to the calculation criteria and no longer identifies a specific school project.
- 2.101 In addition, the following contribution requests in terms of figures and projects have all been amended since the consideration of DOV/19/00642. For this application contributions of £5,545 towards bookstock and additional resources at Deal Library, a contribution of £1,642.00 towards additional resources and IT equipment for the New Learners at Deal Adult Education Centre, a contribution of £6.550 towards youth projects and a contribution of £16,688 towards specialist care accommodation within Dover District, all of which would ensure that the needs generated by the development would be met. It is considered that each of these requested contributions are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. The contribution requests have all been amended since the initial application due to changes in assessment criteria and up to date evidence available at the time of the application consultation.
- 2.102 NHS CCG have also advised that increased capacity is necessary to GP surgeries in Deal and Sandwich that would need to be expanded for the additional increase in patient numbers. The proposed development would be likely to generate a proportionate contribution from the development of £86,400.
- 2.103 The applicant is in the process of agreeing the Heads of Terms in relation to these contributions, that are considered necessary to make the development acceptable in planning terms. The Heads of Terms are:
- Primary education – No contribution requested in respect of this application
  - Secondary Education- towards the expansion of Deal & Sandwich non-selective and Dover District selective schools of £4540.00 per dwelling – total £454,000
  - Community Learning – towards additional resources inc. IT equipment for the new learners at Deal Adult Education Centre of £ 16.42 per dwelling – total £1,642.00
  - Youth Services - £65.50 per dwelling towards additional resources for Deal Youth Service – total £6.550

- Social Care - £146.88 per dwelling towards specialist care accommodation within Dover District total £14,688
- Library Bookstock- contribution towards additional resources and stock for Deal Library - £55.45 per dwelling total £5,545
- A total of £6,066.43 is required as a contribution towards the Thanet and Sandwich Coast Management Strategy
- An off-site public open space contribution for outdoor sports facilities at Deal and Betteshanger Rugby Club of £45,879.54
- NHS CCG contribution of £86,400 towards expansion of GP capacity in Deal and Sandwich
- Monitoring per trigger event of £236 per event
- Payment of all associated legal costs.

2.104 The full range of contributions required by the development are being met by this proposal.

#### Other Material Considerations

2.105 The NPPF identifies the importance and significance of heritage assets in the consideration of development proposals. There are no designed heritage assets on the site or in close proximity and a Built Heritage Statement has been submitted. This considers all known heritage assets in the immediate proximity of the application site including the Grade II Ripple Windmill and Church of St Martin and concludes that their setting and significance would not be affected. The conclusions of this report are accepted and no designated heritage assets will be affected by these proposals.

2.106 The application is also supported by a Desk-based Archaeological Appraisal and Geophysical Survey as the application site is in a known area of archaeological interest with a significant number of finds within the local area. The submitted survey identifies the significance of some of the finds close to the application site and based on this evidence and geotechnical surveys concludes overall that there is a medium/moderate likelihood of archaeological remains on the site which could be dealt with through a further archaeological investigation that could be controlled by condition.

2.107 KCC Archaeology has provided their statutory views on the archaeological potential of the site and concurs with the conclusions of the Archaeological Appraisal on the basis that:

“...The assessment advises that archaeological mitigation works would be appropriate and suggests a programme of archaeological investigation, involving archaeological trial trenching in the first instance, with the results of the trial trenching informing the scope of any further archaeological mitigation. I agree with such an approach and would suggest that such an archaeological programme could be secured by condition. It is recommended that a condition is included to secure a record of the archaeology and to ensure that the results of the investigation are made publicly accessible.”

2.108 As such, it would be reasonable to attach a condition requiring a programme of archaeological work to be undertaken in advance of development in accordance with the NPPF.

- 2.109 The likelihood of contaminants on site is limited due to the previous use of the land, nevertheless, as the proposed end use is residential it is susceptible to risks of contamination. A Preliminary Risk Assessment has been undertaken and submitted. This identifies an elevated risk of pollution and a moderate likelihood of contaminants on site is limited due to the previous adjacent uses and a former landfill close to the boundary. There is also the potential for radon gas and links with hydrocarbons. It is identified that further intrusive ground investigations are required and Environmental Health concur with its findings. It is therefore recommended that the full range of contamination conditions would be necessary if permission were to be approved, to ensure any future development of the site is deemed suitable for the proposed residential use. This would include a full site investigation and remediation strategy, a verification report, certification and in addition a condition would also be required to ensure that should any contamination be identified during construction then further investigation and remediation and/or mitigation measures would need to be submitted and approved. Such conditions would therefore appropriately address any potential contamination and any necessary remediation of the site.
- 2.110 The Kent Police Crime advisor has no objection subject to a condition being imposed to submit details for approval which accord with the principles and physical security requirements of Crime Prevention through Environmental Design. Any application for reserved matters would need to consider crime prevention, in accordance with the NPPF and, as such, it would be reasonable to require details of such measures at the reserved matters stage.
- 2.111 External lighting details have not been submitted but would need to be appropriately mitigated at reserved matters stage. Other matters such as cycle parking, refuse storage and materials will be required to be submitted at reserved matters stage and would not be subject to outline conditions or scrutiny at this stage.

### **3. Conclusion**

- 3.1 In terms of planning policies, development of this site outside the settlement confines would be contrary to policy DM1 and in tension with the 'blanket' restrictions in policies DM11 and DM15. In saying that, it is recognised that this 'basket' of policies (DM1 in particular) are not up to date relative to the approach in the NPPF. The NPPF indicates (paragraph 11) where this is the case development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the proposal.
- 3.2 When weighing up the benefits of the development identified in the report, although there are significant objections to the proposed development, there are no clear planning reasons that would significantly and demonstrably outweigh the benefits of providing additional housing on this site within the district, including the provision of 30% affordable housing.
- 3.3 The proposed development of 100 dwellings will be a substantial addition to the availability of housing sites within the district and would help boost the supply of homes as sought by the NPPF (paragraph 59). The additional housing will also have social, economic and environmental benefits and overall is considered to be sustainable. In addition, the relevant contributions towards local infrastructure costs have been agreed in principle, including education, health and open space contributions. It has also been agreed that the S106 will also require the open space and landscape buffer to be provided in advance of 70% occupation of the units, bringing forward the formal landscaping in advance of a significant proportion of a normal housing building schedule.
- 3.4 KCC Highways consider the proposals to be acceptable, subject to necessary conditions and agreements relating to off-site highway works, including those



previously considered by Members. The proposed impact on the highway has been considered in some detail, including a number of specific conditions and the impact is not considered to be severe. The development accords with paragraph 109 of the NPPF and the impact on the local highways is acceptable, including during the construction stages. In terms of the impact on Coldblow Level Crossing this was also found to be acceptable.

- 3.5 Detailed consideration has been given to the impact on the riding school and its horses with expert advice sought, that confirmed that with the additional measures and conditions set out in this report, the likely impact on the riding school business and the welfare of the horses will be minimised to an acceptable degree. On this basis and on balance, the development is found to be acceptable in this regard
- 3.6 It has been demonstrated that there was insufficient evidence to support the reasons for refusal identified in respect of DOV/19/00642 relating to harm to visual amenity and air quality. This position was supported by an independent landscape consultant and Environmental Protection and was agreed by Planning Committee following the taking of legal advice. This resulted in a formal decision not to defend these reasons for refusal at appeal. It follows therefore, that the conclusion of this report relating to the submission of an identical proposal, is that no harm has been identified to warrant the refusal of this application and as such planning permission should be granted.
- 3.7 All other matters raised can be adequately addressed by planning conditions. Consequently, the application is recommended for approval, subject to conditions and a suitable s106 legal agreement to secure the required contributions and undertakings to further control the development on site.
- 3.8 This outline proposal therefore accords with relevant development plan policies, the NPPF Framework, that directs (at paragraph 11) that sustainable development should be approved unless material considerations identify significant and demonstrable harm. No harm has been identified in the consideration of this application and logically this is an acceptable proposal for this site that should be approved.

**g) Recommendation**

- I. PLANNING PERMISSION BE GRANTED subject to a Section 106 legal agreement to secure necessary planning contributions, undertaking for landscaping works and subject to the following conditions to include:
  - 1) Reserved matters details
  - 2) Outline time limits
  - 3) Approved plans
  - 4) Existing the proposed site levels and building heights
  - 5) Ecological mitigation and recommendations implemented
  - 6) Ecological/biodiversity mitigation, enhancement and management plan
  - 7) Construction Management Plan (inc. route for construction vehicles)
  - 8) Highway conditions (parking, visibility splays, highway works and access fully implemented prior to construction works, turning facilities, cycle parking, gradient, surface, works to all footpaths and drainage)
  - 9) Affordable housing provision (numbers, type, tenure, location, timing of construction, housing provider and occupancy criteria scheme) (if not covered in the s106)
  - 10) Landscaping Details and maintenance of green spaces
  - 11) Open space management plan
  - 12) Protection of Trees and Hedges
  - 13) Hard landscaping works and boundary details/enclosures
  - 14) Reporting of unexpected land contamination

- 15) No works on site until final SuDS details are submitted
- 16) Design details of surface Water drainage strategy
- 17) Implementation and verification of SuDS scheme
- 18) No other infiltration on site other than that approved
- 19) Environmental Construction Management Plan (inc. dust management plan)
- 20) Internal acoustic requirements for dwellings
- 21) 4 Stage contamination, remediation and verification conditions
- 22) Programme of archaeological works
- 23) No piling on site
- 24) Details on foul drainage
- 25) No occupation of development until foul infrastructure reinforcement works are completed
- 26) Details of a scheme for Secure by Design principle compliance
- 27) Broadband connection
- 28) Measures to facilitate EVC charging points
- 29) Road signage to advise of riding school/horses
- 30) Off-site highway works prior to commencement and in accordance with a phased scheme
- 31) Scheme for Traffic Regulation Order along Station Road to be implemented prior to construction works

- 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.

Case Officer  
Lucinda Roach