

- a) **DOV/21/01822 - Outline planning application for the erection of up to 140 dwellings including affordable housing, with public open space, landscaping, and vehicular access (all matters reserved except for access) - Land on the West Side of Cross Road, Deal**

Reason for report: Due to the number of contrary views.

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policies and Guidance**

Core Strategy Policies

- CP1, CP3, CP4, CP6, DM1, DM5, DM11, DM13, DM15 and DM16.

Land Allocations Local Plan

- DM27

Draft Dover District Local Plan to 2040

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process (Regulation 19) the policies of the draft can be afforded some weight, but this depends on the nature of objections and consistency with the NPPF.

- SP1; SP2; SP3; SP4; SP5; SP11; SP13; SP14; SAP14; CC1; CC2; CC4; CC5; CC6; CC8; PM1; PM2; PM3; PM4; PM6; H1; TI1; TI2; TI3; NE1; NE2; NE3; NE4; HE1; HE3

National Planning Policy Framework (NPPF)

- Paragraphs 8, 11 and 12, and Chapters 5, 8, 9, 11, 12, 14 and 15

The Kent Design Guide and National Design Guide

- These guides provide criteria and advice on providing well designed development.

- d) **Relevant Planning History**

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

The above application related to a larger site, comprising land both to the east and west of Cross Road). It was refused for five reasons, namely:

1. The proposed residential development is outside the settlement confines, situated in the countryside and does not accord with development plan policies which seek to ensure sustainable development in appropriate locations. The proposal is contrary to Policies CP1 and DM1 of the Dover District Core Strategy (2013) and Paragraphs 11, 12, 17, 29, 49, 55, 56, 58 and 112 of the National Planning Policy Framework (2012) and no material considerations have been presented to suggest that the harm arising from the conflict with these policies can be overcome.

2. The works necessary to enable the proposed residential development of the site would by their urbanising nature fail to protect the character and appearance of the countryside and landscape setting by causing harm to visual amenities with an inappropriate form of development, contrary to Policies CP1, DM1, DM15 and DM16 of the Dover District Core Strategy (2013) and paragraphs 17, 29, 55, 56, 58, 61 and 64 of the National Planning Policy Framework (2012).
3. The application, which seeks approval for the means of access, has been accompanied by an insufficient level of information to demonstrate that:
 - (i) Opportunities have been taken to facilitate access to/from the site by sustainable transport modes including the provision of public footpath connections;
 - (ii) The public highway network has the capacity to accommodate the proposed increase in road traffic or that the impact on the public highway network can be satisfactorily mitigated; and
 - (iii) The site would be accessed by a safe and suitable form of vehicular access.Accordingly it has not been demonstrated that the proposal, which lies outside the urban confines of Deal, would make the fullest possible use of sustainable transport modes and have an acceptable impact on the safe and efficient functioning of the highway network, contrary to the objectives of Policy DM11 of the Dover District Council Core Strategy (2013) and paragraphs 17 and 23 of the NPPF (2012).
4. The impact of the proposed development on reptiles, which are a protected species under the Wildlife and Countryside Act 1981 (as amended) cannot be adequately assessed or addressed due to insufficient information with regards to populations on site, any potential harm and appropriate mitigation measures. The proposal is therefore contrary to Paragraphs 109 and 118 of the National Planning Policy Framework (2012).
5. The proposed application has not provided an appropriate mechanism to ensure that necessary infrastructure to support the development can be secured at the time it is needed and would not accord with Policy CP6 of the Dover District Core Strategy (2010).

It is also considered that applications on the adjoining site on land to the east of Cross Road, Deal are relevant:

20/01125 - Outline application for the erection of up to 100 dwellings (with landscaping, appearance, layout and scale to be reserved) – Granted

21/01683 - Reserved matters application for the details of layout, scale, landscaping and appearance for the erection of 100 dwellings pursuant to outline planning permission DOV/20/01125 – Granted

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

KCC Highways – Several responses have been received throughout the course of this application. Whilst the comments below summarise the conclusions reached, they do not provide a full account of each consultation response, which are available on the public file.

Initially, KCC raised concerns. In particular, they requested that: additional information be provided to ensure that the cumulative impacts of this development and other committed development were fully accounted for; further junction modelling be undertaken; and the works to Cross Road outside of the site should be shown on the plans to ensure that this development could not be brought forward in isolation of these works. The applicant subsequently submitted additional information in response to these requests.

Taking into account background and committed growth on the network, the development would result in the Station Road, Dover Road and Gram's Road to operate at absolute capacity, with peak queue lengths increasing by two cars. On its own, this impact would not be severe. However, the LPA are seeking enhancements to the junction through the Local Plan in the form a signalised junction. Due to the capacity constraints of this junction KCC have advised that they welcome these discussions.

Suitable visibility has been demonstrated at the Station Road/Ellens Road and Cross Road junction, with a series of highway improvement works being secured by the permission on the adjacent site. These should be secured. These works include: localised widening to allow suitable manoeuvring for refuse/delivery vehicles; the provision of footway between the site and Cross Road (crossing facilities will additionally be required); formalisation and improvement of the existing single-way working section of the road; provision of an additional passing place on Cross Road to the south of the site; extension of the existing 30mph speed limit; and provision of improved pedestrian crossing facilities at the junction of Cross Road with St Richards Road.

Initially, KCC objected to the application as, on the evidence available at the time, they were concerned that the development would be served by a 1m wide footway on Station Road. However, later evidence demonstrated the level of pedestrian movements generated and the split between movements to/from Station Road and Cross Road. Anticipated pedestrian movements would be 18 2-way movements in the AM peak and 10 in the PM peak. Improved pedestrian crossing facilities would be provided at the Cross Road/St Richards Road junction which, whilst secured by the neighbouring development, should also be secured by this application. Due to the level of pedestrian movements along Station Road, the provision of a 1m wide footway would not warrant an objection. The pedestrian link along Station Road should also be secured by condition. The Bridleway Rising School has been put forward for allocation in the emerging Local Plan and could present an opportunity to improve future footpath connections.

KCC Economic Development – The development would generate a additional demand for infrastructure which will require mitigation. Consequently, contributions are sought for secondary education, community learning, youth services, library book stock, social care and waste service.

KCC Archaeology – Request that a condition be attached to any grant of permission to require the implementation of a programme of archaeological works.

Network Rail – The development will introduce more road vehicles and pedestrians onto Cold Blow crossing, increasing the risk to the railway, the public and future occupiers of the development. Two options are presented to enhance the crossing, costing £4m and £350-400,000 respectively. These enhancements would provide a Benefit Cost Ratio of 0.1 and 0 respectively. The £4m scheme would be unreasonable to request; however, it is requested that the alternative solution be secured should permission be granted.

DDC Housing Development Manager – 30% affordable housing is proposed which, on the basis of 140 dwellings, would equate to 42 dwellings. The required tenure split would be 25% First Homes, 20% shared ownership and 55% (corrected from 25% following further discussion) affordable rent. The exact mix will be established at the reserved matters stage, but should comprise an appropriate range of dwelling sizes. The development would make a valuable contribution to the affordable housing needs in the district.

DDC Environmental Health – Subject to a robust dust management plan being secured by condition, the construction phase would not cause unacceptable impacts on air quality. During the operational phase, the development would have a negligible impact on air quality. Noise levels in residential properties would be acceptable, subject to appropriate glazing and noise levels in gardens would be below the minimum noise level.

Kent Police – Make several comments/recommendations regarding the detailed design of the development.

KCC LLFA – The drainage approach demonstrates that surface water can be accommodated within the proposed development area. Advice is provided regarding the detailed design of drainage infrastructure. Should permission be granted, it is recommended that conditions be attached requiring full details of the sustainable surface water drainage strategy to be submitted for approval and that a verification report is provided prior to any occupation.

Southern Water – There is a high risk that the development could negatively impact groundwater quality and the potable water supply, due to the proximity to source protection zone 1 and the groundwater abstraction point. The risk to groundwater needs to be properly quantified and assessed, and sufficiently robust groundwater protection measures implemented. Regard will also need to be had for enhanced fracture flow pathways present in the chalk aquifer.

Southern Water can facilitate foul sewerage disposal from the site. A condition would be needed to ensure that existing sewers are protected during development.

Environment Agency – This application has a low environmental risk and the EA therefore have no comments to make.

NHS – Request a contribution of £146,376 towards providing additional capacity within the catchment of the site for GP services.

Walmer Parish Council – Object

- The previous application for this site and the neighbouring site, for 200 dwellings, was refused
- Cross Road and Ellens Road are wholly inadequate to accommodate the development and need to be widened
- Lack of public transport. A bus stop/shelter should be provided, with subsidised travel
- Lack of footpaths/cycle paths, which should be provided to Station Road and St Richards Road
- The dwellings should incorporate sustainable technologies (including grey water recycling) and be designed in keeping with the area
- Need for enhanced shelter belt of trees

- Community allotments and/or gardens should be provided
- Inadequate infrastructure

Deal Town Council – Object. The development is not in the interest of the Town/Community and concerns are raised regarding the impacts on the highway, the particular need for housing in the area to be collocated with recreational space and cycle/foot paths and the impact on the aquifer.

Great Mongeham Parish Council – Object, citing lack of infrastructure (roads, sewerage, schools, medical services) and congestion on the highway network.

Public Representations – Forty-six objections have been received to this application, raising the following summarised concerns (full comments are available on the public file):

- New housing is not needed
- Loss of farmland
- Loss of habitat and wildlife
- Loss of open space/an area for children to play
- The local highway network could not support the development (including during the construction phase)
- The pedestrian links to and from the site are inadequate
- Inadequate infrastructure in the vicinity of the site
- Flooding
- New housing should be on brownfield land
- Noise and disturbance
- Pollution
- The development would impact the level crossing at Coldblow
- Inadequate drainage and sewerage provision
- Harm to the character and appearance of the area and on the quality of the landscape
- The development has commenced

- f) 1. **The Site and the Proposal**
- 1.1 The site is located to the west of the built-up area of Walmer. The north east of the site is bounded by residential development fronting onto Cross Road and Lydia Road. To the east of the site is Cross Road, beyond which is a parcel of land which benefits from outline planning permission (20/01125) and reserved matters approval (21/01683) for the erection of 100 dwellings. To the south west is Ellens Road and to the north west is vehicle MOT centre and scrap yard, a self storage site and agricultural land. From Ellens Road the land rises gently towards the north. The land also rises gently from Ellens Road to the south.

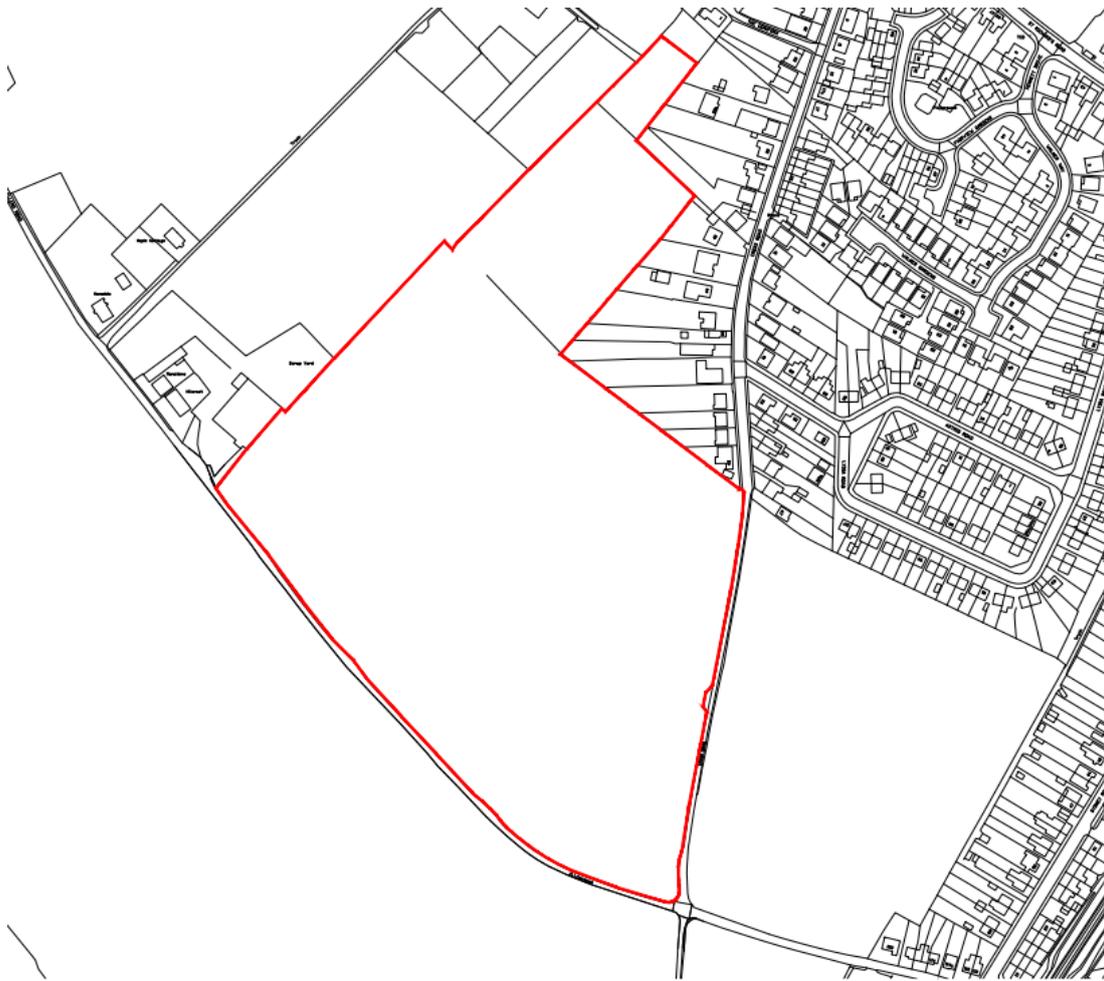


Figure 1: Location Plan

- 1.2 The site itself measures approximately 8.71 hectares and comprises a roughly rectangular shaped parcel of land with a smaller roughly rectangular addition towards the northern corner of the site. The land is vacant of buildings and agricultural in nature, although it does not appear to have been actively farmed for some time. The majority of the site contains low vegetation and the remnants of arable crops. To the north east and eastern boundaries of the main part of the site is low vegetation (Alexanders, brambles etc.) whilst to the south west and north west of this main part of the site is a mixed woodland which appears to be approximately 25 years old. The smaller parcel to the north is covered with long grass and other low vegetation, predominantly with hedges to its boundaries.
- 1.3 This application seeks outline permission for the erection of up to 140 dwellings. All matters, other than access, are reserved. Indicative plans have been submitted with the application which seeks to demonstrate how the quantum of development applied for could be achieved on site. The indicative plan demonstrates that the only 4.17 hectares of the site would be built on (producing a density of 33.6dph), with the remaining being retained and proposed woodland and public open space. The development would also necessitate off site works to the local highway network to facilitate the development.

Dover District Council Reg 18 Draft Local Plan - Open Space Requirements (DM Policy 31)

Typology	Standard Required per 1000 pop. (Ha)	Required (Ha)	Onsite required?	Proposed (Ha)
Accessible greenspace - Parks & Gardens	0.45	0.1966	-	-
Accessible greenspace - Amenity Greenspace	1.46	0.508	Yes	4.19
Provision for children & young people	0.06	0.04	Yes	0.04
Allotments	0.21	0.073	-	-

Calculations based on 2.4 persons per household based on a density of 35 DPH (giving an estimated population of



Figure 2: Development Framework Plan

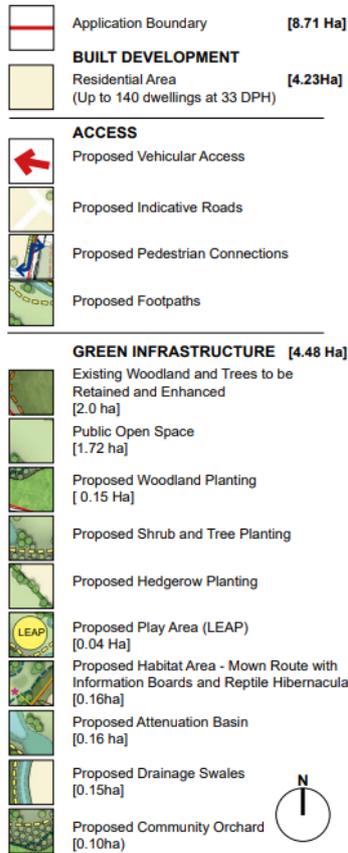


Figure 3: Development Framework Plan Key

2. **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the area and on the landscape
- The impact on the highway network
- The impact on neighbouring properties
- Drainage and contamination
- Ecology

Assessment

Principle

2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan unless material considerations indicate otherwise.

Development Plan

2.3 The site is located outside the existing settlement boundary of Walmer and is considered to be within the countryside for the purposes of the policies within the Core Strategy. In such a location Core Strategy Policy DM1 (Settlement Boundaries) restricts development other than in specific and limited circumstances (justified by other development plan policies) or it functionally requires such a location. As the proposed development does not fall within any of these exceptions, it is contrary to Policy DM1.

2.4 Policy DM1 is considered to be partially consistent with the aims of the Framework (including prioritising previously developed land, avoiding the loss of BMV agricultural land, making better use of under-utilised land and buildings, and recognising the intrinsic character and beauty of the countryside), it is also identified that Policy DM1 is a product of the level of housing growth of the Core Strategy and is more restrictive than the NPPF which seeks to significantly boost the supply of homes.

2.5 The Core Strategy policies and the settlement confines referred to within those policies were devised with the purpose of delivering at least 505 dwellings per annum. In accordance with the Government's standard method for calculating local housing need, the Council must now deliver at least 611 dwellings per annum. Consequently, as a matter of judgement, the evidence base underlying Policy DM1 is considered out-of-date. As such, Policy DM1 should carry less than full weight.

2.6 Policy DM11 (Location of Development and Managing Travel Demand) seeks to restrict travel generating development to existing urban areas and rural settlement confines unless otherwise justified by development plan policies. In this regard the proposed development, being outside the settlement boundary, is also considered to conflict with Policy DM11.

- 2.7 The aim of Policy DM11 to manage patterns of development to prioritise more sustainable modes of transport broadly reflects the aims of the NPPF. However, the blanket restriction within Policy DM11 against development outside of the settlement confines is again significantly more restrictive than the NPPF which instead seeks to actively manage patterns of growth to support sustainable modes of transport (considering the location of development on its specific merits). Therefore, Policy DM11 in the context of the proposed development should be afforded less than full weight.
- 2.8 Policy DM15 seeks to resist the loss of countryside, which is more stringent than the NPPF, and development that would adversely affect the character or appearance of the countryside, which is broadly consistent with the NPPF. The first strand of this policy (resisting the loss of countryside) is another example of the blanket restriction against development outside of the confines; however, the second strand is more consistent with the NPPF, albeit the NPPF refers to character and beauty rather than the more generic character and appearance. Whilst not considered to be out of date, Policy DM15 is considered to carry reduced weight.
- 2.9 Given the importance of Policy DM1, the relationship between Policy DM1 and DM15, and the tension between Policy DM11 and the Framework, it is considered that the 'basket of policies' in the Core Strategy which are most important for determining applications are out-of-date and should be given less than full weight.

Tilted Balance

- 2.10 Notwithstanding the primacy of the development plan, Framework paragraph 11(d) states that where the policies which are most important for determining the application are out of date permission should be granted unless (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (known as the 'tilted balance') or (ii) specific policies in the Framework indicate that development should be restricted.
- 2.11 The consequence of engaging the tilted balance, in respect of the recommendation of how this application would have been determined, is considered further in the overall planning balance at the end of this report.
- 2.12 Whilst the tilted balance is engaged by reason of the most important policies for the site being out of date, it must be noted that the tilted balance is not engaged by reason of the councils housing land supply or housing delivery positions. The council is able to demonstrate a housing land supply of 6.03 years and the council's Housing Delivery Test measurement is currently 88% and forecast to increase to 102% for the period 2019/20 – 2021/22.

Draft Local Plan

- 2.13 Regard is had to the draft Local Plan, which sets out the Council's vision, strategic objectives and development strategy for the growth of the district over the period until 2040. This includes planning for housing development based on a local housing need figure of 611 dwellings per annum (using the Government's standard method), with a distribution of those homes focussed on Dover town and Whitfield; at Deal and Sandwich, to an extent that reflects their environmental and highway constraints; and at Aylesham through a strategic size extension to that settlement.

- 2.14 The draft Local Plan under Policy SAP 14 - Land off Cross Road, Deal (DEA008), seeks to allocate the site for residential development. The Policy advises that the site has an indicative capacity of 100 dwellings and that development proposals will need to meet a number of criteria (a to k). These criteria will be assessed later in this report, under the relevant headings as appropriate.
- 2.15 The draft Local Plan currently carries some weight in decision making. However, in accordance with Framework paragraph 48, given there are objections to relevant spatial and housing allocation policies of the draft Local Plan that are unresolved ahead of examination, full weight cannot yet be afforded to its overall strategy of meeting the district's housing needs. However, it is concluded that the draft policy does carry moderate weight at this stage.

Character and Appearance

- 2.16 This application has been submitted in outline with all matters other than access reserved. As such detailed considerations such as the appearance, layout, landscaping and scale are not for consideration at this stage. That said, regard must be had for whether the site is capable of successfully accommodating 140 dwelling.
- 2.17 Draft Policy SAP 14, at criterion (a), states that any development of the site must be "sensitively designed to respect the character of the existing built area to the north and east of the site and take account of any approved details for the site to the east of Cross Road". Criterion (b) requires that an appropriate landscape buffer, determined by a Landscape and Visual Impact Assessment, will be required to mitigate the impacts of the development on the wider countryside.
- 2.18 The site measures approximately 8.71 hectares, whilst the area which is proposed to be developed for housing, roads and other built infrastructure measures approximately 4.17 hectares. The application proposes up to 140 dwellings, which equates to a density of approximately 33.6 dwellings per hectare of the net developable area. Policy CP4 advocates densities of 40 dph where possible, whilst advising that densities below 30dph will seldom be justified. Whilst the density of development falls short of the 40dph which is advocated by the Core Strategy, it is a little over the minimum density of 30dph. Given that the draft policy for the site includes an indicative capacity of 100 dwellings, it is not considered that density of under 40dph is unacceptable. The net density of this site (based on the highest number of dwellings, 140) would be higher than that of the site to the east of Cross Road, albeit that density figure included the soft landscaped areas to the peripheries of the site (i.e. the density is a gross figure of 25.3dph, rather than a net figure of 33.6dph). Accounting for the landscaping the density of the built on parts of the two sites would be comparable, albeit the current application includes a significantly greater provision of undeveloped green space.
- 2.19 The application has been supported by a Landscape and Visual Appraisal, which sets out the typography of the site and the surrounding area, the theoretical visual envelope of the site (i.e. the areas from where the site would be visible), the location of key viewpoints of the site, the sensitivity of receptors at these viewpoints and the consequential magnitude of the landscape effect of the development. Figure 4 demonstrates that the site is, broadly, bound by existing development to its north and east and that the site sits on the north eastern side of a shallow valley, the base of which is approximately delineated

by Ellens Road. The land rises again to the south west. Due to this topography and the presence of existing development (both existing and approved) in the vicinity of the site, the visual envelope of the site is relatively restricted.

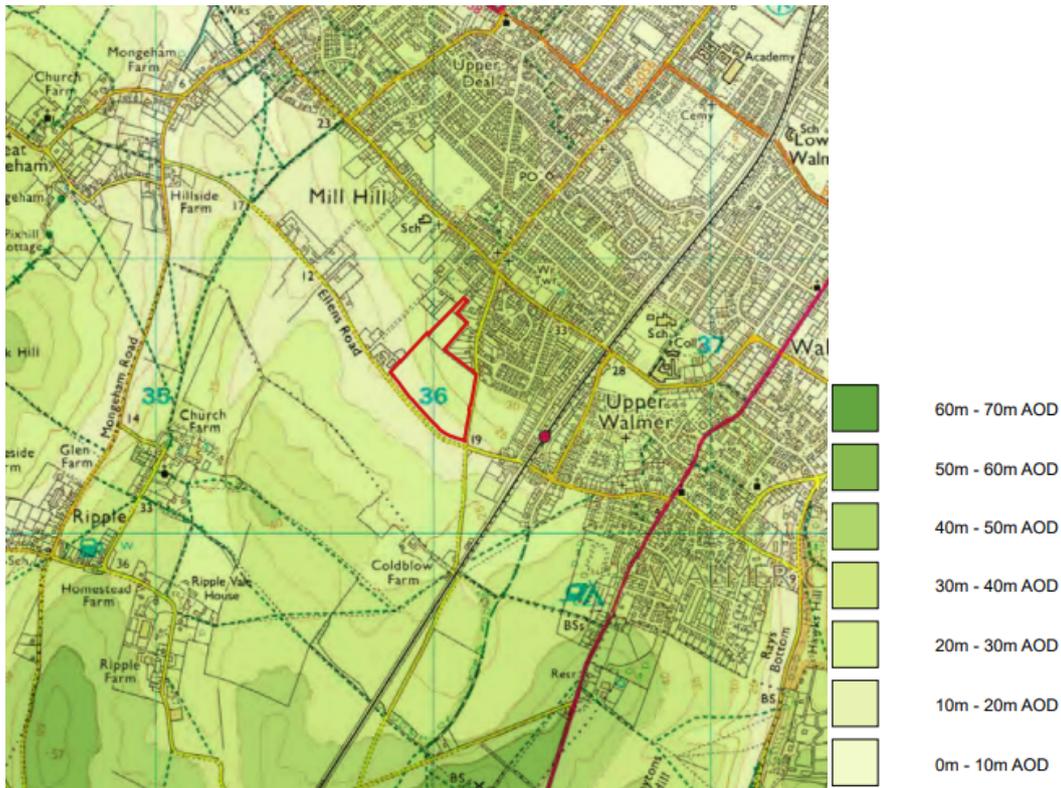


Figure 4: Topography

- 2.20 There are several Public Rights of Way (PROWs) in the vicinity of the site. EE436 lies to the south west of the site and run approximately south east to north west. This footpaths links Ripple to the EE339, Coldblow and other PROW and highways. EE433 lies to the west of the site, runs approximately north to south and links Ellens Road, Deal to Church Lane, Ripple. The submitted LVA has included viewpoints from these PROWs. Other footpaths, such as the EE438 have not been assessed as they lie outside of the Zone of Theoretical Visibility and do not, therefore, provide views of the site. From these PROW viewpoints, the site is visible but would be seen in the context of the existing housing to the north east of the site and the approved housing scheme to the east of Cross Road.
- 2.21 In addition to the limited visibility of the site resulting from the topography of, and development in, the surrounding area, the site also benefits from an established plantation woodland, which is approximately 25 years old. This mixed woodland plays a significant role in screening the site in views from the south east, east and north east. Whilst wider views of the site are limited for these reasons, the site is plainly visible from Cross Road to the south of the existing housing, the western end of Station Road across the land which has planning permission for housing, the eastern end of Ellens Road and Coldblow as far as the railway crossing. Again, the LVA contains viewpoints from these locations.
- 2.22 At present the site is seen as part of the countryside which extends beyond the settlement confines around Deal; however, in most views the rear elevations of properties on Lydia Road and, to a lesser extent properties on Cross Road, form the backdrop to views. It should also be noted that the development to the

eastern side of Cross Road, which has planning permission, would have its own impact on the character of the area as seen in short and longer views, especially from Cross Road, albeit the landscaping to the southern and western boundaries of that site would significantly reduce the prominence of the proposed dwellings in the landscape.

- 2.23 Some of the most affected viewpoints are those closest to the site. The LVA advises that the impact on views from the residential properties to the north of the site would be major adverse in year 1, reducing to moderate adverse in year 15. Views from Lydia Close and Station Road would be affected, but to a lesser extent (moderate/minor adverse, reducing to minor adverse). Views from Sydney Road would be affected lesser still (minor adverse/negligible adverse, reducing to negligible adverse/none). From Ellens Road and Coldblow the affect would be minor adverse, reducing to minor adverse/negligible. Negligible or no visual effects would be caused to dwellings in other locations. Having visited these locations in the winter months, these conclusions are not disputed.
- 2.24 From PROW EE433, views of the site are only possible from a short section of path, with the existing trees on the site dominating the view. The impact from this viewpoint is therefore considered to be negligible. From EE436 (see Figure 5), the impact is assessed as being Moderate/Minor adverse on completion and at year 15. This is due to the level of intervisibility, with the area proposed for housing being visible on the rising slope of the land, whilst the footpath also rises uphill. Currently, this view takes in the existing settlement which is located on the ridge. The proposed tree planting would not significantly filter views of the dwellings due to the location of this planting. Visual impacts from other PROW's (EE439 and EE421) are assessed as being negligible due to the distance over which views are taken, the limited visibility of the site, intervening tree cover and the existing composition of the view compared to the post development view. Again, it is not considered that these conclusions are unreasonable.



Figure 5: Viewpoint from PROW EE436

- 2.25 Users of the highways in the area have also been considered. The impacts broadly follow the impacts from residential properties set out previously. The most significant impact will be on users of Cross Road from which the development would be seen as an extension to the existing residential

development. From Ellen's Road and Station Road, the development would be visible, albeit behind the tree planting and open space which is proposed and in the context of the approved development to the East of Cross Road. The visual impact from these roads is considered to be moderate adverse reducing to minor adverse by year 15. The Skylar Trail cycle route runs along Coldblow and onto Station Road, the users of which (cyclists) are more likely to notice their surroundings. The effect of the view would be limited by the context in which the housing would be seen, consequently the impact is considered to be minor adverse, reducing to negligible. Views from other roads are considered to be negligible or none.

- 2.26 Finally, the LVA has considered the impacts on other visual receptors, including users of the riding school, the caravan park, employment sites, the latter of which would be most affected by the development having a moderate adverse effect reducing to a minor adverse effect.
- 2.27 Particular regard must be had for the night time visual impact of the development. The development will produce light (street lighting and light emitting from windows etc.); however, the development will require a bat sensitive lighting scheme, whilst the vegetation to most boundaries would reduce light spill. Moreover, the development would be seen against the backdrop of the existing development in the area. Consequently, the night time effect is not considered to be significant.
- 2.28 The site contains a great number of trees, principally in groups to the south west and north west of the main field, but also in smaller groups and individual trees around the north of the site. The indicative plan has been designed to incorporate all of the existing tree stock into the development and complement it with new tree and hedge planting.
- 2.29 Should permission be granted, it is considered that it would be necessary to ensure that the visual impacts of the development are minimised through the use of conditions. Lighting will be controlled by the bat sensitive lighting condition. In terms of securing an appropriate quality of development, it is considered that samples of materials and details of windows and doors should be required. Sections through the site should also be provided at the reserved matters stage to ensure that the finished height of dwellings is appropriate.
- 2.30 To conclude, in closer views of the site, particularly from Cross Road, the development would be plainly visible behind a narrow strip of soft landscaping. In views from Cross Road, the development would be a marked change from the appearance of the site experienced at present. That said, the development would be seen as a continuation of the development along Cross Road (albeit in a form softened by some landscaping) and reflective of the development to the eastern side of Cross Road. In longer views, the visual envelope of the site would be limited by the topography and development would be well screened in most views by existing landscaping. This impact would be further reduced once the proposed new landscaping has had time to mature. Any residential development of this scale would inevitably result in some impact to the character of the area; however, it is considered that the indicative layout, retention of existing landscaping and proposed new landscaping would significantly reduce harmful impacts. Overall, the visual impact of the development would cause some moderate and minor adverse impacts to views in the area, and this would equate to harm to the area's character. Notwithstanding this, the harm caused does weigh against the development in the planning balance; however, it is

averred that it should carry no more than moderate weight in the planning balance.

- 2.31 The site is a significant distance away from the closest Listed Building or Conservation Area such that no harm, whether substantial or less than substantial, would be caused.

Impact on Residential Amenity

- 2.32 The site extends up to the boundaries of 28 to 60 Cross Road. All other existing properties in the vicinity and well separated from the site, such that they would not experience unacceptable loss of light, sense of enclosure or overlooking. The indicative layout shows that the build development would be set away from the boundaries of the site, providing separation between proposed dwellings and the gardens of neighbouring properties. Whilst at this stage full details of the layout have not been submitted (layout being one of matters which is reserved), it is considered that the provision of slim buffer between the development and existing dwellings, together with the overall density of the net developable area of just under 34dph is sufficient to ensure that adequate separation between existing and proposed residential development could be secured.
- 2.33 The development would also front onto Cross Road and, consequently, regard must be had for the potential impact on the living conditions of future occupants of the consented development to the east of Cross Road. The consented development would be set back from Cross Road by a landscape buffer, whilst the indicative plan for the current application site also shows a narrow landscape buffer which would provide a footpath. As such the development proposed by the current application could be designed in such a way so as to avoid unacceptable impacts on the consented development to the east.
- 2.34 A Noise Assessment Report has been submitted which demonstrates that noise levels in residential properties would be acceptable, subject to appropriate glazing, whilst noise levels in gardens would be below the minimum noise level. Noise mitigation to residential properties can be secured by condition.

Impact on Local Highway Network and Movement

- 2.35 Whilst this application has been submitted in outline, access has not been reserved and so is to be considered as part of this application. Core Strategy Policy DM11, draft Local Plan Policy T11 and the NPPF seek (i) to locate travel generating development where there is opportunity for walking, cycling and use of public transport and (ii) for development to be designed to maximise such opportunities for sustainable travel. Specifically, the NPPF advises that permission should only be refused on highway grounds where the development would cause an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 2.36 Draft Policy SAP14 requires, at Criterion (d), that the primary vehicular, pedestrian and cycle access to the site be provided from Cross Road and include the widening of, and traffic management to, the Cross Road frontage (either as part of this development or by the development to the East of Cross Road). Criterion (e) of the policy requires that a Transport Assessment be provided which identifies any necessary mitigation, taking into account cumulative impacts with other sites on the local road network, including Station Rad, Cross Road and St Richards Roads and their junctions.

- 2.37 The Infrastructure Delivery Plan, which identifies the infrastructure required to support the development within the Local Plan (which includes the current application site), sets out that development across much of the district will have an impact upon the Whitfield and Duke of York roundabouts. Strategic highway improvements are required at these locations as a result of the cumulative impacts of growth and consequently, developments which will contribute to the need for improvements will need to pay proportionate contributions for the upgrades. The total cost for these improvements is £12m. The proportionate cost towards infrastructure works has been calculated by extrapolating trip data from the transport modelling carried out to inform the emerging plan. For developments in Deal the contribution per dwelling is indicatively £2000. The Infrastructure Delivery Schedule (IDS) confirms that all sites within certain zones (which includes Deal and Walmer) will be expected to contribute towards the Local Plan mitigation. The IDS also advises that the development proposed by Policy SAP14 (i.e. this application), together with two other proposed allocations) will need to contribute towards local road network improvements at Station Road/Dover Road/Grams Road/Ellen's Road/Cross Road/A258. This has been incorporated into draft Policy SAP14, as set out above.
- 2.38 The modelling work required to establish the precise design of the Station Road/Grams Road/Dover Road junction has not yet been completed. This work would ordinarily have been undertaken to inform the emerging Local Plan; however, this application was submitted in advance of the examination and publication of the plan. Whilst the modelling data for this application indicates that the impacts of this development on its own may not be severe, the junction improvement is required in order to ensure that the local plan growth can, cumulatively, be accommodated without causing an unacceptable impact on the local highway network. To support this plan-led approach to ensuring that developments contribute proportionately to the impacts their applications would have to overall growth, the applicants have agreed under forward fund the detailed design work and costings for the junction work. Once the costings of a local-plan compliant junction improvement are known and agreed, the applicant has agreed to meet the proportionate costs of delivering the junction improvements, with the remainder of the cost being borne by other allocated developments within the locality.
- 2.39 As per the requirement of draft Policy SAP14, the application proposes an access onto Cross Road. The access would be a short distance to the south of the approved access serving the approved development to the east of Cross Road. The proposed access would be 5.5m wide with 2m wide footpaths leading to an uncontrolled pedestrian crossing across Cross Road and linking to the footpaths within the approved development to the east of Cross Road which in turn link to the wider footpath network in the area. With the widening of Cross Road and the geometry of the access, it would be suitable to allow access and egress for vehicles, including larger vehicles such as refuse or fire appliance vehicles. The proposed access would have visibility splays of 43m x 2.4m x 43m, ensuring visibility in either direction given the speed of the road. It is considered that the access has been designed in accordance with Manual for Streets and will meet the needs of the development.
- 2.40 A speed survey was carried out on Cross Road which showed average speeds of 27.2mph (85th percentile speed 33.3mph) northbound and 27.5mph (85th percentile speed 33.7mph) southbound. The applicant has agreed that, whilst the average speed is appropriate for a 30mph road, they would be agreeable to a 'gateway feature' being secured by condition to reduce speeds further. Should

permission be granted, a separate Traffic Regulation Order would be required to facilitate the access and the associated highway works.

- 2.41 The approved development to the east of Cross has already secured a number of works to the highway. This includes localised widening of Cross Road and a formalised priority give way arrangement to the north of the proposed access, a new passing place to the south, a pedestrian cross point with a central island to Cross Road at its junction with St Richards Road and a footpath and pedestrian Crossing point along Station Road (discussed in more detail later in this report). As part of the development on Station Road, which is currently being built out, junction realignment has taken place at the junction of Station Road and Dover Road.
- 2.42 The application has been supported by traffic surveys and, junction assessments and transport assessments, which have used pre-pandemic traffic surveys (and a further surveys of the Station Road, Dover Road Gram's Road junction in 2022) and factored in both projected background growth and committed development in the vicinity, including the developments to the East of Cross Road and land off Station Road, together with the Whitfield Urban Expansion, to ascertain a baseline. The TRICS database was then used to ascertain predicted movements to and from the site, with the inputs being agreed by KCC Highways and being commensurate with the agreed forecast for the site to the East of Cross Road. This predicts 81 additional movements in the AM peak (22 arrivals and 59 departures) and 87 movements in the PM peak (55 arrivals and 32 departures). These movements would be split approximately 60/40 between vehicles traveling north and south. Based on the projected flows, junction modelling has been carried out which demonstrates that the most constrained junction, the junction of the A258 and Station Road, would experiences baseline queue lengths of 5 cars increasing to 7 cars in the AM peak. On its own, KCC have advised that this would not warrant refusal of the application; however, as set out above, the council have sought to mitigate the in-combination effects of local plan growth through junction improvement works, which the applicant is progressing. Subject to the off-site highway works outlined by the applicant and the proportionate contribution towards junction improvement works being secured, it is considered that the development would not cause a severe cumulative impact on the local highway network or a highway safety concern.
- 2.43 Criterion (f) of Policy SAP 14 requires that pedestrian improvements are secured to provide a direct route to Walmer Station, crossing improvements on St Richards Road, Mill Hill and a footway connection to link with the existing footway network at the Station Road/Sydney Road junction.
- 2.44 Under the planning permission for the land to the east side of Cross Road, a pedestrian link, which is to be made available for public use, was secured through the application site. This would provide a footpath link from the application site up to Station Road, which is the most direct route to the train station and the numerous facilities and services which are available to the east, around Dover Road. The permission also secured, by condition, the provision of a 1m wide footway along Station Road where there is currently no footway to link to existing footways. The permission also secured dropped kerb crossing points at the junctions of Station Road, Mayers Road, Station Drive and Court Road. KCC's initially raised concerns that the 1m wide footway would not be sufficient to meet the needs of this development in combination with the previously approved development. The standard width for such a footpath would be 1.6m. However, the width of the highway at this point of Station Road is

insufficient to provide more than a 1m wide footway, with the carriageway already being reduced to a single lane width with priority right of way to accommodate the approved arrangement. Upon reconsulting KCC, they advised that the reduced width of the footpath "is not considered robust enough to warrant an objection". Whilst it is considered that this route provides the only feasible route to the train station, bus stops of Dover Road and the facilities and services in the vicinity of Dover Road, some pedestrian movements would route via Cross Road to amenities to the north (schools, bus stops, various shops etc.). There will be around 18 two way pedestrian movements in the AM peak and 10 in the PM peak. Whilst I concur with third parties that the provision of a 1m wide footway is highly regrettable, will make it more difficult for wheelchairs and prams to use and weighs significantly against the development, it is not considered that it would be sufficient to warrant refusal.

- 2.45 To the north, the development would have footpath access to the existing footpaths on Cross Road. These footpaths, which are provided to both sides of the road, are typically around 1.2m in width, although they do vary in width in places and in some cases are restricted by lampposts and telegraph poles. As above, whilst some footpaths would be limited width, it is not considered that a sustainable reason for refusal could be made based on the width of these existing footpaths which already serve the area.
- 2.46 Policy DM13 of the Core Strategy requires developments to provide sufficient car parking, having regard for the scale of the development and its location. DM13 does, however, acknowledge that car parking provision should be designed. The application would create a suburban development. In such locations, Table 1.1 of the Core Strategy advises that one and two bedroom dwellings should be provided with one parking space per unit; three bedroom dwellings should be provided with 1.5 car parking spaces; and dwellings with four or more bedrooms should be provided with two car parking spaces (although these figures are described as being minimums). In addition, 0.2 visitor spaces should be provided for each dwelling. At this outline stage, details of car parking provision have not been provided; however, given the density of the proposed development there is no reason to doubt that adequate car parking could be provided at the reserved matters stage should this application be granted.
- 2.47 The NPPF advises that permission should only be refused on highway grounds where the development would cause an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. For the reasons outlined, it is concluded that the development would not cause significant harm to the road network and would not cause any unacceptable impacts on highway safety and is therefore acceptable.
- 2.48 Network Rail have commented that the development will introduce more road vehicles and pedestrians onto Cold Blow crossing, increasing the risk to the railway, the public and future occupiers of the development. The modelling used to calculate the likely increased use of the crossing differs from the highway modelling used by the applicant and the highway authority to predict where movements will take place, instead adopting an illustration of impacts based on 5% of the occupants of the development would use the crossing by car and by foot. This assumption would mean that there would be a 150% increase in the use of the crossing as a result of the 140 dwellings proposed (i.e. the development would generate more movements over the crossing than all the existing movements generated by the population in the local area). Likewise, National Rail assume that 5% of the occupiers of the development would walk over the railway crossing. Based on the TRICS model, which is a nationally

recognised method of establishing movements from a development, together with having regard for where facilities, services and employment are located, it is not considered that Network Rails conclusions are robust. These concerns have been presented to Network Rail but no response has been received. Notwithstanding these concerns, Network Rails advice outlines two options to enhance the crossing, costing £4m and £350-400,000 respectively. These enhancements would provide a Benefit Cost Ratio of 0.1 and 0 respectively. Ratios of between 0.0 and 0.49 are defined as a “weak safety and business benefit being established”. Given that the evidence for significant additional impact is considered is not considered to stand up to scrutiny and given that the suggestion enhancements do not provide meaningful mitigation, it is concluded that it would not be justified to seek contributions in this instance.

Ecology

- 2.49 Regard must be had for the potential impacts of the development on ecology, protected species and habitats which could be affected by the development both on and off site. In assessing the ecology of the site, National England’s Standing Advice has been considered. Much of the site is of low ecological value, predominantly comprising former agricultural land and species poor grassland. However, some areas of the site do have potential to support protected species, namely the plantation woodland and vegetation around the peripheries of part of the site. Bat surveys were undertaken which established that 8 species used the site, albeit the species were more common species and there was no evidence of potential for bat roosts. The vegetation on site provides potential for nesting birds. Criterion (c) of draft Policy SAP14 requires that appropriate habitat surveys are carried out prior to determination. Criterion g of draft Policy SAP14 requires that a wintering bird survey be undertaken. Whilst the Submitted Preliminary Ecological Appraisal does not include a specific wintering bird survey, the report does assess the habitat on the site and concludes that the loss of the grassland on the site would not affect overwintering birds. This conclusion has been accepted by the councils Senior Ecologist. Whilst there is some potential for reptiles on the site, these would be limited to the arable margins of the site and the northern parcel. Any reptiles can be passively displaced to the northern section of the site, which will be enhanced to provide additional capacity. The application also proposes ecological enhancements, in the form of native planting, wildlife corridors and bat and bird boxes. The councils Senior Ecology is satisfied that, subject to a series of conditions to secure a Biodiversity Method Statement, bat sensitive lighting and biodiversity enhancements, the development is acceptable in ecological terms.
- 2.50 The Environment Act 2021 set out a mandatory requirement for new development to provide a minimum of 10% biodiversity net gains; however, this requirement does not come into force until November 2023. The NPPF does, currently, seek developments to secure measurable net gains for biodiversity where possible, but does not set minimum requirements. The emerging plan, at Policy NE1, will seek to achieve the nationally prescribed minimum of 10% Biodiversity Net Gain, which should be secured for 30 years. Notwithstanding that these policies are yet to come into force, the developer has submitted evidence which seeks to demonstrate that the development would achieve at least a 10% biodiversity net gain, through preserving and enhancing woodland and hedges and creating new habitats. The applicant has used the DEFRA’s Biodiversity Net Gain metric calculator, which is a nationally prescribed method of calculating net gain.

2.51 Whilst initial concerns were raised regarding the methodology used to establish the baseline calculation of biodiversity on site, additional information has been provided to the satisfaction of the councils Senior Ecologist, who has concluded that the Biodiversity Net Gain Assessment, Outline Biodiversity Mitigation Plan and Biodiversity Metric adequately demonstrate that a 10% biodiversity net gain can be achieved on the site. It is recommended that, should permission be granted, a condition should be attached requiring that a Biodiversity Gain Plan and Biodiversity Management and Monitoring Plan are submitted for approval. Subject to such a condition, the development would provide a Biodiversity Net Gain of at least 10%, which is considered to add weight in favour of the development.

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

2.52 It is necessary to consider any likely significant effects of the proposed development in respect of disturbance of birds due to increased recreational activity on the Thanet Coast and Sandwich Bay SPA (as a designated European Site).

2.53 It is not possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA.

2.54 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 site and the integrity of the site itself.

2.55 A Strategic Access Mitigation and Monitoring Strategy (SAMM) has been prepared and adopted by the Council in order to monitor potential impacts on the qualifying bird species for the SPA arising from development in the district and to provide appropriate mitigation through a range of management and engagement methods.

2.56 This mitigation comprises several elements, including the monitoring of residential visitor numbers and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education).

2.57 Having had regard to the proposed mitigation measures (to manage recreational activities from existing and new residents), it is considered that the proposed development would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA where it would make a contribution (of 1-bed £112; 2-bed £224; 3-bed £337; 4-bed £449) towards implementation of the SAMM.

Flood Risk and Drainage

2.58 Criterion K of draft Policy SAP14 requires that a site-specific Flood Risk Assessment is submitted. Such an assessment has been submitted.

2.59 The site lies within Flood Risk Zone 1, which has the lowest risk of flooding from rivers or from the sea. Consequently, it is not necessary to undertake the Sequential or Exceptions tests for flooding. However, it is still necessary to

consider the potential for localised flooding. Cross Road and the lower land to the south of the site are identified as being at risk from surface water flooding.

- 2.60 Criterion J of draft Policy SAP 14 requires that the development connects to the nearest point of adequate capacity in the sewerage network and be phased to ensure that its occupation aligns with the delivery of any sewerage infrastructure required. The application has been supported by a Foul Sewerage and Utilities Assessment, whilst drainage is also considered within a submitted Flood Risk Assessment and Outline Surface Water Drainage Strategy. The development would discharge approximately 1.26l/s into the foul sewerage network, with a manhole capable of accommodating the flows located adjacent to the site. Records indicate that within the eastern boundary of the site is a 1200mm diameter oversized pipe which is believed to provide online storage for the public foul sewer network. Southern Water, in conformity with the applicants understanding, have advised that they are able to provide foul sewerage disposal to the site. Notwithstanding the position of the applicant and Southern Water, third parties have raised concerns regarding the capacity of the network, with manholes overflowing in heavy rain. Whilst the management of surface water on the site and on the neighbouring site which benefits from planning permission (which currently have no managed surface water drainage) will help to reduce surface water flows from the land onto the road, as with other sites in the Deal area, a condition will be required in order to ensure that full details of foul drainage are provided and any necessary infrastructure improvements are in place, prior to the first occupation of the development.
- 2.61 Turning to surface water disposal, the applicant has, within a submitted Flood Risk Assessment and Outline Surface Water Drainage Strategy, provided details for the strategy to address run-off from the site. The application proposes to drain non-permeable areas to swales, which will feed into an attenuation pond. This will then feed into an infiltration basin with sufficient capacity to drain the predicted surface water run-off in a managed way. The basin has been designed, following infiltration testing, to accommodate sufficient attenuation for a 1 in 100 year rainfall event, inclusive of a 40% uplift to account for climate change. Permeable paving may also be incorporated to reduce the impermeable areas on the site. Pollution control measures will be incorporated into the drainage design. The Lead Local Flood Authority have confirmed that they agree that the applicant's approach is appropriate and demonstrates that surface water can be accommodated within the site, whilst making comments regarding what they would expect to be included in a detailed drainage plan. Should permission be granted, it is recommended that detailed drainage designs are secured by condition and that an additional condition is attached requiring that a verification report, demonstrating that the approved detailed drainage design has been implemented, is submitted for approval prior to any occupation.
- 2.62 In assessing surface water infiltration, particular regard has had to be had for the site's location in Groundwater Source Protection Zone 2 (the site is close to Zone 1). This means that the site is close to a public drinking water abstraction site and so groundwater is especially sensitive to contamination. In particular, Southern Water required additional information to be submitted to demonstrate how water which infiltrates into the site would travel through the ground towards the abstraction point, taking into account the structure of the chalk aquifer and potential pathways. A Hydrological Appraisal was submitted by the applicant. This appraisal, whilst not addressing all of Southern Waters concerns, was sufficient to provide confidence that the risks are understood and that, subject to a detailed condition for a Hydrological Risk Assessment which considers

karst flows, and subject to drainage design, foundation design and construction management conditions taking into account groundwater, the development would not harm groundwater quality.

Housing Mix and Affordable Housing

- 2.63 In accordance with Core Strategy Policy DM5 and draft Local Plan Policy SP5, the proposed development would need to provide 30% affordable housing. The applicant has commented that “The mix of affordable housing will be determined at Reserved Matters stage reflective of the most up-to-date identified needs within the district”. The tenure split of this housing in accordance with advice from the Council’s Strategic Housing Manager, if planning permission was to be granted, would be secured (through obligations of a s.106 undertaking) as 55% affordable rent, 25% First Homes and 20% shared ownership. Overall, 42 affordable dwellings would be provided, which the Council’s Strategic Housing Manager considered would “make a valuable contribution to the affordable housing needs in the district”. It is considered that the benefit of providing these affordable dwellings should carry significant weight in the planning balance.
- 2.64 Core Strategy Policy CP4 and Policy H1 of the draft Local Plan require the mix of major residential development to reflect the Council’s latest evidence of housing need and market demand. This latest evidence is the Council’s Strategic Housing Market Assessment – Partial Part 2 Update, December 2019 (“the SHMA”). Again, the precise mix of dwellings would need to be established at the reserved matters stage, when the layout and scale of the development would be submitted; however, the proposed density of development would not prejudice the delivery of a mix which meets the districts identified needs.

Infrastructure

- 2.65 Policy CP6 of the Core Strategy emphasises that development that generates 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. Draft Local Plan Policy SP11 retains this approach, to ensure infrastructure is delivered at the right time in the right place to meet the growing needs of the district. KCC have requested that, in order to meet the needs generated by the development, contributions would be required to deliver education, community learning, youth service, library services, social care and waste services. They have demonstrated that there is currently insufficient capacity to meet the needs generated by the development and that the contributions requested would allow for the infrastructure upon which the development would rely to be provided.
- 2.66 As set out above, emerging Policy NE3 requires that developments within a 9km zone of influence around Thanet Coast and Sandwich Bay are required to provide contributions towards mitigating impacts on the SPA, in accordance with table 11.2.
- 2.67 LALP Policy DM27, and Draft Policy PM4, require that sports facilities are provided. The applicant has, within their Planning Statement, confirmed that they will meet the cost of such infrastructure, as necessary. The Sport England Sport Facility Calculator has been used to assess the needs arising from the development. The projects identified for this contribution, which would amount to £2,029.51 per dwelling or £284,131 in total based on 140 dwellings being delivered, are Deal Football/3G pitches and Tides Leisure Centre. Other Open

Space, such as informal green space and a children's play area is to be provided on site.

- 2.68 As set out above, the development would deliver policy compliant provision of affordable housing.
- 2.69 The NHS have advised that there is limited capacity within the local general practice services to accommodate the development. The development will generate approximately 407 new patients and it will be necessary to increase the capacity of premises in the vicinity of the site to accommodate this additional demand. The NHS does not have a specific project identified at this stage, but has advised that they will work with practices within the catchment of the site (St Richards Road Surgery, Manor Road Surgery, Balmoral Surgery and The Cedars Surgery) to provide the necessary capacity and have requested £146,376 to achieve this. This figure is based on 140 dwellings being provided. As the description of the development is 'up to 140' dwellings, it is considered that it would be more appropriate to secure a contribution of a 'per dwelling' basis should permission be approved.
- 2.70 In light of the consultation responses received and planning assessment above, the following obligations (which are considered to accord with the tests for requesting contributions) would be required to be secured through a S106 agreement (together with securing the highway improvement works) if planning permission was to be granted:

Matter	Contribution
Secondary education	£4,540 per dwelling (excluding 1-bed units less than 56sqm)
Community learning	£16.42 per dwelling
Youth service	£65.50 per dwelling
Library book stock	£55.45 per dwelling
Social care	£146.88 per dwelling
Waste	£54.47 per dwelling
Thanet Coast and Sandwich Bay Special Protection Area SAMM	Per dwelling: <ul style="list-style-type: none"> - 1-bed £112 - 2-bed £224 - 3-Bed £337 - 4-bed £449
Outdoor sports facilities	£284,131 or £2,029.51 per dwelling
Affordable housing	30% affordable housing; split 55/25/20 affordable rent / first homes / shared ownership Affordable housing scheme to be submitted and agreed before submission of first reserved matters application, based on percentage and tenure split agreed at this outline stage
NHS Kent & Medway Group contribution	£504 per one-bedroom dwelling £720 per two-bedroom dwelling £1,008 per three-bedroom dwelling £1,260 per four-bedroom dwelling £1728 per five-bedroom dwelling

Archaeology

- 2.71 Criterion h of draft Policy SAP14 requires the submission of an Archaeological Assessment of the site. Such an assessment has been submitted. The Mill Hill area has long been recognised for its archaeological importance with several significant archaeological discoveries having previously been made nearby, together with exceptionally dense areas of archaeology in the close vicinity of the site (more than 500 individual archaeological features which were identified between 1984 and 1989 to the north of the development site on the Walmer Way housing site). Archaeological investigations in the area have recorded evidence of occupation from the Neolithic period onwards, including the particularly important 'Mill Hill Warrior', who was buried with a sword, shield and crown, which are now on display in the British Museum.
- 2.72 Whilst the majority of the known archaeology in the area is located along the Mill Hill ridge, KCC Archaeology still consider that the application has a moderate potential for remains to be present on the site. On this basis, and having regard for paragraph 205 of the NPPF, it is considered that it would be proportionate to require that a programme of archaeological works takes place. This should be secured by condition, should permission be granted.

Other Matters

- 2.73 The NPPF, at paragraph 174, advised that planning policies and decisions should recognise "the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland". The site includes Best and Most Versatile agricultural land and the loss of BMV agricultural land is a material consideration which weighs against the development. However, the loss of land would be relatively limited, and it is noted that the loss of agricultural land was not cited as one of the reasons for refusal for the previous application for this site and the neighbouring site to the east of Cross Road and neither was it determinative when the land to the east of Cross Road received planning permission. Whilst the loss of BMV is material in the planning assessment, it is not considered that it is determinative given the circumstances of this case, in particular given that the site is proposed for allocation.
- 2.74 An Air Quality Assessment has been submitted by the applicant. This concludes that the development would lead to insignificant impacts on air quality, both during the construction and operational phases. Environmental Protection have concurred that the development would have a negligible impact on air quality but have recommended that dust management takes place during construction, which can be secured by condition.
- 2.75 Criterion i of draft Policy SAP14 requires that a contaminated land assessment is submitted with any application. Such an assessment has been submitted. As set out at paragraph 2.62, regard has also been had for pollution to groundwater. The risk of contamination on the site is generally low and linked to past uses such as fertiliser, pesticide and herbicide use. The site is also close to a motor vehicle business. Consequently, whilst the overall risk is limited, it is recommended that further contaminated land assessment is secured by condition, which will need to include ground sampling and testing, ground gas monitoring and refinement of the conceptual model.

3. Conclusion

- 3.1 The previous application for this site and the site to the east of Cross Road was refused for five reasons, relating to: the sites location in the countryside; the visual impacts of the development; the lack of information regarding highway impacts; impacts on reptiles; and the lack of infrastructure provision being secured. The full wording of the reasons for refusal is set out at section (d) of this report. Since that application was refused outline planning permission, reserved matters approval has been given for the land to the east of Cross Road. In relation to the current application, the site has been proposed for allocation in the emerging Local Plan, being identified as a suitable location for additional housing to meet the needs of the District and one of a just two larger sites in the Deal area identified as being capable of delivering housing over the plan period (together with four 'smaller sites'). The development would have an impact on the character of the area; however, this impact is considered to have been limited and mitigated through the use of landscaping. Likewise, impacts on the highway network and impacts on reptiles are now considered to be acceptable. Finally, the developer is proposing to meet the demonstrated infrastructure needs of the development. It is therefore concluded that the previous reason for refusal have been overcome.
- 3.2 As stated, the site is proposed for allocation in the emerging Local Plan, albeit the indicative capacity of the site is 100 dwellings. The draft policy sets 11 criteria for the development of the site. It is considered that the proposal addresses these criteria.
- 3.3 The policies that the basket of most important for the determination of this application are out of date. Consequently, the application should be assessed having regard for the 'presumption in favour of sustainable development', or the 'tilted balance' as set out at paragraph 11d of the Framework. This requires that planning permission should be granted unless the adverse impacts of granting planning permission would 'significantly and demonstrably' outweigh the benefits.
- 3.4 The site is also included within the emerging local for residential development. Whilst the emerging policy allocating the site indicates a capacity for 100 dwellings (this application proposing 140 dwellings), it is considered that the principle of residential development of the site is supported.
- 3.5 The development of the site would, necessarily, alter the character of the site in some views, especially short-range views from Cross Road. Whilst this impact is considered to weigh against the scheme, it is concluded that the level of harm is limited. There would also be a loss of BMV agricultural land. Whilst this weighs against the development, this loss was not cited as a reason for refusal of application 17/00505 and is not considered to weigh heavily in the planning balance. Other benefits would also accrue from the development, such as the provision of at least a 10% biodiversity net gain, which also attract weight in favour of approval. Against this harm, the development would provide up to 140 dwellings, of which 30% would be affordable. Inspectors regularly consider that the provision of housing of this magnitude and the provision of a significant number of affordable houses should each carry substantial weight in the planning balance.
- 3.6 Subject to conditions and a legal agreement, the development is considered to be acceptable in all other material respects.

- 3.7 It is therefore concluded that the harm of this development is significantly outweighed by the benefits (conversely, the test for refusal being that the harm must significantly and demonstrably outweigh the benefits). As such, it is recommended that planning permission be granted.

g) **Recommendation**

- I PERMISSION BE GRANTED subject to a S106 to secure the required contributions, provision and retention of play area and mitigation and to secure a proportionate contribution to the off-site highway improvement works, and conditions to include: -

- (1) Reserved matters details
- (2) Outline time limits
- (3) Approved plans
- (4) Existing the proposed site levels and building heights
- (5) Biodiversity Net Gain and Biodiversity Management and Monitoring Plan
- (6) Biodiversity Method Statement, including biodiversity mitigation and enhancement (including bat sensitive lighting)
- (7) Construction Management Plan (including assessment of impacts on groundwater and dust suppression)
- (8) Highway conditions (vehicle parking, bicycle parking, visibility splays, turning facilities and details of the construction of roads)
- (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) Contamination
- (15) Full details of surface water drainage (prior to commencement of the development), including a Hydrological Risk Assessment
- (16) Verification of the implementation of surface water drainage scheme
- (17) No other infiltration on site other than that approved
- (18) Internal acoustic requirements for dwellings
- (19) Programme of archaeological works
- (20) Full details of foul drainage, including timetable for implementation and connection
- (21) Details for the protection of existing public sewers
- (22) Broadband connection
- (23) Off-site highway works prior to commencement
- (24) Samples of materials
- (25) Full details of windows and doors, including the depth of reveals
- (26) Details of foundation design
- (27) Details of refuse and recycling facilities
- (28) No flues, vents, grilles or meter boxes

- II Powers to be delegated to the Head of Planning and Development to agree a contribution for off-site highway work, settle any necessary planning conditions and secure a legal agreement, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Luke Blaskett

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