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Application: DOV/15/00327

43 Dola Avenue

Deal

CT14 9QH

TR36715242



a) **DOV/15/00327 – Erection of 9 chalet bungalows, associated parking and vehicular access - 43 Dola Avenue, Deal**

Reason for report: Number of contrary views.

b) **Summary of Recommendation**

Planning Permission be granted.

c) **Planning Policies and Guidance**

Core Strategy Policies

- CP1 – The location and scale of development in the District must comply with the Settlement Hierarchy. Deal is identified as a District Centre, which will be the secondary focus for development in the District; suitable for urban scale development.
- CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM11 – 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.
- DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.

National Planning Policy Framework (NPPF)

- The NPPF has 12 core principles which, amongst other things, seeks to: proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs; secure high quality design and a good standard of amenity for all existing and future occupants and buildings; encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value; and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.
- Chapter four of the NPPF seeks to promote sustainable transport. In particular, paragraph 29 states that “the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas”.

- Chapter six of the NPPF seeks to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- Chapter seven requires good design, which is a key aspect of sustainable development.

The Kent Design Guide (KDG)

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

d) **Relevant Planning History**

There is no planning history for the application site which is directly relevant to the determination of the current application. However, the following applications, which relate to neighbouring sites, are of note in the assessment of the current application.

210 Middle Deal Road, Deal (Rear of Site with Access Proposed off Foster Way)

DOV/04/01318 – 2 No. detached two storey 3 bedroom houses – Granted

Land Rear of 41 Dola Avenue, Deal

DOV/04/01287 – Erection of two detached bungalows – Refused and Dismissed at Appeal.

DOV/06/01461 – Erection of one detached chalet bungalow – Refused and Allowed at Appeal.

e) **Consultee and Third Party Responses**

In respect of the initial consultation, the following representations were received:

Deal Town Council – Recommend that the application be refused. The development would have: an overbearing impact on the local community; negative environmental impact; and would have serious issues on parking and highway safety with insufficient car parking per dwelling.

Environmental Health – No observations to make.

Environment Agency – No comments to make.

KCC Highways and Transportation – Foster Way and Dola Avenue are suitable to accommodate the additional dwellings. Clarification should be provided to show that the applicant has access over the section of Dola Avenue leading to the site. Allocated car parking accords with Policy DM13, however 2 visitor spaces are also required under this policy. The applicant should discuss refuse arrangements with DDC.

KCC Flood Team – Object. Surface water is to be disposed of via soakaways; however, the feasibility of soakaways at this site is in considerable doubt and, as such, the development could lead to an increased risk of surface water flooding. In order to overcome this objection, the applicant should undertake a ground investigation to the appropriate standard, which demonstrates ground water conditions are of sufficient permeability to enable the effective use of infiltration structures.

Public Representations – Thirty-eight letters of objection have been received, raising the following concerns:

- Overdevelopment
- Increased congestion in Dola Avenue and Foster Way
- Harm to highway safety and the free flow of traffic
- Insufficient car parking has been proposed
- The development would harm the character and appearance of the area
- Trees were removed from the site prior to the submission of the application
- The proposed trees would impact upon neighbouring buildings
- The development would harm the living conditions of neighbouring properties, including through overlooking and noise and disturbance
- Inadequate infrastructure to serve the development
- The loss of vegetation has resulted in the loss of wildlife, including protected species, and their habitat
- The proposal should not create a through road/the proposal should be for a new cul-de-sac
- The dwellings would be served by inadequate green space/gardens
- The proposal would not provide adequate surface water drainage

Following amendments to the application and additional information, which reduced the number of dwellings proposed from 10 to 9, introduced additional car parking, altered the design of the buildings and introduced soakaway areas; the following consultee and third party responses were received:

KCC Flood Team – Remove objection, as it is likely that the provision of large soakaway structures will adequately accommodate surface water runoff from the site; however, a condition is recommended as there are some outstanding concerns with the information provided to date.

KCC Public Rights of Way – It would be preferable to have no vehicular access over the public right of way. Visibility out of the site could be improved whilst, should DDC be mindful to approve the application, a ramped pedestrian crossing should be included, signed to alert vehicles of pedestrian priority.

Principal Infrastructure and Delivery Officer – The development would give rise to a need for 0.044ha of Open Space. A project has been identified in Victoria Park to reconfigure hard courts to provide dual use for both tennis and netball. The development would give rise to a need to provide a contribution of £5,690 towards the funding of this project.

Arboricultural Officer – No objections following receipt of the tree report.

Environmental Health – No observations to make.

Environment Agency – No comments to make.

Deal Town Council – Object. The development would have: an overbearing impact on the local community; negative environmental impact; and would have serious issues on parking and highway safety with insufficient car parking per dwelling.

Public Representations – Five letters of objection have been received, raising the following concerns:

- Overdevelopment
- Insufficient car parking provision
- Harm to highway safety and the free flow of traffic
- The areas of soft landscaping will not be maintained
- The proposed trees would impact upon neighbouring buildings
- The loss of vegetation has resulted in the loss of wildlife, including protected species, and their habitat
- Inadequate refuse provision
- Insufficient foul and surface water drainage provision
- Noise and disturbance

Following further amendments to the application, which amend the access to the site to provide one point of access from Dola Avenue (removing the access to Fosters Way and instead providing a pedestrian link in this location); the following consultee and third party responses were received:

Deal Town Council – Object. The development would have: an overbearing impact on the local community; negative environmental impact; would have serious issues on parking and highway safety with insufficient car parking per dwelling; and would have a detrimental impact on the quality of life of local residents.

KCC Public Rights of Way – The vehicular access over the public right of way should include a ramped pedestrian crossing, signed to alert vehicles of pedestrian priority.

KCC Highways and Transportation – The development includes an access to Dola Avenue only, which is acceptable. The proposal also includes a raised table and improved visibility splays. No objections are raised, subject to conditions.

Arboricultural Officer – No objection to the removal of the Sycamore on site, subject to the provision of replacement trees of a reasonable height and species. The trees should be protected by a requirement to replant any trees which are lost. Some trees may be protected by TPO's, once established.

Public Representations – Twelve letters of objection have been received, raising the following concerns:

- Concern regarding the introduction of a pedestrian access onto Foster Way
- The builders of the development should not access the site from Foster Way
- Overdevelopment
- Concern that a subsequent planning application may be submitted to provide an access into Foster Way
- Future maintenance of the landscaped areas
- People could congregate in the area of open space, causing noise and disturbance
- The proposed trees would impact upon neighbouring buildings

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

1.1 The site lies within a wholly residential area of Deal. The area has a mixed character with linear and perimeter block development to the south east and winding cul-de-sacs to the north west. The scale and form of development is equally varied, with a mixture of detached, semi-detached and terraced properties of one, one and a half or two storeys in height.

- 1.2 The site itself currently contains one detached bungalow facing towards Dola Avenue to the north east, with an extensive garden extending to the south west towards Foster Way. A Public Right of Way (ED21) runs along the north east boundary of the site.
- 1.3 This application seeks planning permission for the erection of nine dwellings within the extensive garden of the existing property. A total of fifteen car parking spaces would be provided, two for the existing dwelling, one for each of the proposed dwellings and four communal visitor spaces. These car parking spaces would be served by one vehicular access to Dola Avenue and an access road through the site, with a turning head to the south of the site. Following amendments to the application, the vehicular access, and subsequently the pedestrian access, to Foster Way has been omitted.

2 **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact of the development on the character and appearance of the area
- The impacts of the development on the living conditions of neighbouring properties
- The impact on the highway network

Assessment

Principle

- 2.2 The site lies within the settlement confines of Deal, as defined by the Proposals Map. Within this area, having regard for Policy DM1, the principle of the proposed development is acceptable subject to other material considerations.
- 2.3 Paragraph 49 of the NPPF states that "housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites". At present, the council is unable to demonstrate a five year supply of housing land. As such, and in accordance with paragraph 14 of the NPPF, planning permission must be granted, unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies" of the NPPF, or where specific policies of the NPPF "indicate development should be restricted".

Character and Appearance

- 2.4 The development would provide a linear form of development to create a small cul-de-sac, which would respond to the prevailing pattern of development within this part of Deal. There is a mixture of building types within the area, including single, one and a half and two storey dwellings. However, properties in the spur off Dola Avenue which would access the site are predominantly single storey, whilst the properties in Foster Way are predominantly one and half storeys. The proposed dwellings largely comprise one and a half storey properties; however, the dwelling facing Dola Avenue would be single storey. It is therefore considered that the layout, pattern of development and scale of the proposed dwellings accords with the character of development in the area.

- 2.5 The design of properties in the area vary significantly. Distinct groups of buildings display a coherent design; however, each group of buildings differs from the next. The proposal would create a holistic and self-contained development which would produce a character of its own, whilst responding to the proportions of the neighbouring properties, in particular those in Foster Way. The proposed dwellings would provide a regular rhythm to their fenestrations, whilst detailing such as a red brick plinth under yellow brick walls, together with vertical glazing would add interest to the buildings. Having regard for the mixed character of the area and the strong design of the development as a whole, it is considered that the proposal would produce a high quality design which respects the character and appearance of the area.
- 2.6 The development proposes front garden areas and landscape margins along the sides of the access road. These areas include the provision of thirty-eight new trees which would significantly soften the site and provide maturity to the development. It is considered that it would be reasonable to secure the provision and maintenance of the proposed landscaping by condition.

Impact on Residential Amenity

- 2.7 The site is bounded by residential properties on all sides, with properties particularly close to the north west, north east and south west boundaries of the site.
- 2.8 To the north west of the site are No.27 Foster Way and No.'s 41 and 41a Dola Avenue. The proposed row of dwellings would back onto the side boundaries of these properties, which enclose their rear gardens. The proposed dwellings would be set around 6m away from these boundaries and 7.1m and 13m from the side elevations of No.'s 27 and 41a respectively. Whilst the proposed dwellings would be relatively close to these properties, it is not considered that any unacceptable loss of light or sense of enclosure would be caused to these neighbouring properties, or their gardens, due to the restricted height of the development, having an eaves level of 2.3m rising to a ridge of 7.5m.
- 2.9 The proposal would include first floor dormer windows and roof lights to the rear roof slope, facing towards No.27 Foster Way and 41 and 41a Dola Avenue. Whilst these windows would be close to these properties, they have been designed to have a cill height of 1.7m above the finished floor level of the rooms they serve. For this reason, it is considered that the potential for overlooking has been mitigated. Furthermore, trees are proposed within the rear gardens of properties which, whilst not being relied upon, would further reduce the perception of overlooking.
- 2.10 To the east of the site is Marbaling, which would be located around 7.5m from the closest point of Unit 1, which is entirely single storey in height. At this distance, and having regard for the height of Unit 1, no loss of light or sense of enclosure would be caused. Furthermore, as Unit 1 would provide no accommodation at first floor level, no overlooking would be caused. Whilst Unit 2 does provide windows at first floor level, these would be at an obtuse angle to Marbaling and at a distance of around 23m and would not, therefore cause unacceptable harm.
- 2.11 To the south west of the site is No.44 Foster Way, which is located around 12m from the side elevation of Unit 9. Unit 9 would be approximately level with the front car parking areas of No.44 and this relationship, together with the

separation distance between the two properties will ensure that no unacceptable loss of light or sense of enclosure would be caused. Furthermore, whilst an elongated window would be provided in the side elevation of No.9, this would face the front car parking area of No.44, which is already open to public views, and would produce no direct overlooking of private areas. Furthermore, this window serves a stairwell, which would be likely to be used intermittently. The development would not, therefore, cause any significant harm to the living conditions of No.44.

- 2.12 To the south east, the site is bounded by the rear elevations of properties on Middle Deal Road. These properties have long rear gardens (in excess of 40m) and, as such, the proposed dwellings would be located a significant distance away from the rear elevations of these neighbours, causing no loss of light, sense of enclosure or overlooking.
- 2.13 It is not considered that any other properties would be impacted by the proposed development and, as such, the development would not cause any unacceptable harm to the living conditions of any neighbouring property.
- 2.14 Regard must also be had for the living conditions of future occupiers. The dwellings would be of a reasonable size, whilst all habitable rooms would be served by windows to provide natural light. Concern has been raised that the gardens of the proposed dwellings would be too small. Whilst there is no minimum garden size for new dwellings, it is considered that the gardens provided would be adequate to meet the day to day needs of occupants, providing sufficient space for refuse and cycle storage, and general amenity space. The living conditions for future occupiers are therefore considered to be acceptable.

Impact on the Highway

- 2.15 The proposal has been amended through the course of the application to provide a single means of access from Dola Avenue. The scheme had originally included a second access to Foster Way; however, this was removed and a turning head provided following significant local objection. Several objections have been received regarding the replacement of the vehicular access to Foster Way with a pedestrian access, which could encourage occupants of the development to park in Foster Way. Subsequently, the applicant has agreed to remove this pedestrian access and construct a boundary wall across the north western boundary of the site adjacent to Foster Way to provide a physical barrier. However, at the time of writing this report, this amendment had not been received. Should permission be granted subject to this amendment, the application will not be formally determined until suitable amended drawings have been submitted.
- 2.16 The proposed access, which would utilise the access to the existing dwelling, would lead from Dola Avenue and would pass over a Public Right of Way (PROW). Concern had been raised that the intensification in the use of the access could reduce the usability of the PROW; however, the proposal now includes a raised table to the access, reducing vehicle speeds as they enter and exit the site. Furthermore, the development would secure generous pedestrian visibility splays of 2m by 3m. Forward visibility for vehicles entering the site would also be acceptable.

- 2.17 The layout of the internal road proposed would allow sufficient width to provide access through the site, whilst the turning head at the end of the road would allow vehicles to turn within the site and exit in a forward gear.
- 2.18 Following several site visits, it has been noted that the roads within the locality provide very limited opportunities for on-street car parking and it is therefore concluded that the development cannot rely on on-street car parking. The development would provide one off-street space per dwelling, together with four visitor spaces. The site is considered to be within a suburban location where, having regard for the guidance for car parking provision outlined in Table 1.1 of the Core Strategy, two bedroom dwellings will be expected to be provided with one allocated car parking space, together with 0.2 spaces per dwelling for visitors. As such, the development is required to provide eleven car parking spaces. The development would provide thirteen spaces for the proposed dwellings (plus two spaces for the existing dwelling). Whilst on-street car parking in the surrounding area is constrained, it is considered that the car parking proposed is sufficient to meet the needs generated by the development.
- 2.19 The proposal does not show any provision for the parking of bicycles. However, the site provides sufficient space for the provision of cycle parking and the applicant has confirmed that he would be happy for a condition to be attached to any grant of planning permission to secure the provision of cycle parking. Subject to the inclusion of a suitably worded condition, it is considered that the development is acceptable in this respect.
- 2.20 Whilst access to the site is considered to be acceptable, access by large lorries and construction vehicles along the relatively narrow section of Dola Avenue is constrained, whilst the site itself is relatively small, providing only limited opportunities to load and offload vehicles, store materials and park construction workers vehicles. It is considered that, in order to ensure that the development does not cause harm to the neighbouring roads and the living conditions of neighbours, a condition should be included in any grant of permission requiring that a construction management plan is submitted for approval.
- 2.21 Subject to conditions being attached to any grant of permission, and the submission of a suitable amended drawing omitting the pedestrian access to Foster Way and providing a wall to the boundary with Foster Way, it is considered that the development would cause no harm to highway safety, the free-flow of traffic or the convenience of road users.

Contributions

- 2.22 Core Strategy Policy DM5 requires that for schemes of 5 to 14 dwellings an on-site provision of affordable housing or an equivalent financial contribution (or a combination of both) will be required. The applicant has completed the Councils Affordable Housing Pro-forma, which sets out that developments will be expected to provide a financial contribution equivalent to 5% of the Gross Development Value.
- 2.23 Two bedroom dwellings of a similar size to those proposed, within a 1 mile radius of the site, are typically advertised for sale in the region of £180,000 to £285,000, with the more expensive dwellings typically comprising detached bungalows and the cheaper properties typically being semi-detached and one and half storeys. There are two new build detached bungalows for sale in Hancocks Field which are advertised at £235,000, which are the closest advertised properties of this

type to the application site. The most comparable property to those of the proposed development is a 2 bed semi-detached one and a half storey dwelling on Southwall Road, which was advertised at £199,995 and has sold subject to contract. Whilst actual sales values may be slightly below the advertised values, it is considered that the dwellings would reasonably attract a sales value of approximately £200,000. Consequently, the applicants estimated Gross Development Value of £1,799,550 (£199,950 per dwelling) is considered to be reasonable. As such a contribution of £89,977.50 is required.

- 2.24 Policy DM27, which is included in the Land Allocations Local Plan (LALP), requires that planning applications for residential development will be expected to provide, or contribute towards the provision of open space to meet the needs generated by the development.
- 2.25 Having regard for Table 1.4 in the LALP, the total amount of civic open space required by the additional residents is approximately 0.041 ha, comprising 0.027 ha accessible green space, 0.014 ha outdoor sports facilities, 0.0007 ha equipped play space and 0.002 ha allotments/community gardens. There is no opportunity to provide open space within the development. As such, it is likely that facilities at Victoria Park would come under increased pressure; it is located around 1km from the development along footpaths (500m as the crow flies).
- 2.26 Given the size of the proposed dwellings, together with the existing provision within the locality, it is considered that the most relevant need arising from the development will be outdoor sports facilities. The adopted Playing Pitch and Outdoor Sports Facilities Strategy identify a need to increase capacity at the hard courts at Victoria Park so as to meet additional need for outdoor sports expected during the plan period.
- 2.27 The need for sports facilities arising from the development is 0.0141ha or 141m². An identified project which would meet the need for additional sports demand is the construction and laying out of a dual use tennis and netball court at Victoria Park. According to Sport England guidance the area of a doubles tennis court, including run-offs is 669m². Therefore the proportion of a tennis court required would be 0.21. According to LTA guidance the cost of constructing a porous macadam court is £27,000 therefore a reasonable contribution may be calculated as £5,690.
- 2.28 As such, contributions of £89,977.50 and £5,690 would be necessary, directly related to the development, deliverable and reasonable in all other respects, in accordance with the CIL Regulations.
- 2.29 At the date of writing this report, a legal agreement securing the required affordable housing and open space contributions has not been submitted; however, the applicant has confirmed that he is happy to provide such an undertaking to provide the required contributions. This undertaking is currently being written for submission. Subject to receipt of an acceptable legal agreement, it is considered that the development would provide the infrastructure required by Policies DM5 and DM27 to meet the needs generated by the development.

Surface Water Drainage

- 2.30 The proposal seeks to discharge ground water runoff via soakaways. The site lies in an area where groundwater is located at a relatively shallow depth, reducing the grounds ability to quickly drain away water. At the time that the application

was submitted, no ground investigation had taken place and, as such, ground conditions or drainage rates were unknown. In the absence of such information, it could not be demonstrated that sufficient unsaturated, permeable material was present to enable the effective drainage of the site and avoid localized surface water flooding.

- 2.31 During the course of the application, the applicant undertook drainage testing to demonstrate the permeability of the ground and provided details of the size and design of soakaways and construction details of the permeable hardstanding areas. This testing, whilst undertaken having regard for BRE365, was not carried out to the correct depth (0.75m as opposed to 1m) and was not carried out for the correct period of time. The errors in the methodology could result in a slightly lower rate of permeability than suggested by the test results. However, the results were sufficient to demonstrate that the drainage proposed is likely to be feasible and, consequently, KCC's Flood Team have not objected to the development, instead recommending that a condition is attached to any grant of permission requiring the submission of details of a surface water drainage scheme, including further drainage testing.

Trees

- 2.32 The site includes one tree to the southern corner of the site. This tree is a mature sycamore of around 13m in height, but is not covered by a Tree Protection Order. It is considered that, as the largest tree in the area, it provides a contribution to the visual amenity of the area. Following amendments to the scheme, it is proposed to fell this tree to make way for a vehicular turning head.
- 2.33 The loss of the tree would detract from the wider visual amenity of the area; however, the application proposes the provision of thirty-eight trees. Whilst these replacement trees, due to being smaller than the sycamore they would replace, would not mitigate the loss of visual amenity in the wider area, they would enhance the visual amenity of the site itself in views from Dola Avenue and Foster Way. It is considered that this significant enhancement would outweigh the loss of the single sycamore. Furthermore, the provision of trees, including details of their size and species, can be secured by condition. Such a condition could also secure the re-provision of trees which are lost, to maintain the benefits to the visual amenity of the area which would accrue.
- 2.34 Concerns have been raised by third parties that a significant number of trees and other vegetation were removed, prior to the submission of the application. Having reviewed aerial images of the site, it appears that these assertions are correct. However, the site is not covered by any Tree Preservation Orders or any other legislation which would prevent the loss of trees or other vegetation. The loss of this vegetation is not, therefore, material to the assessment of the current planning application.

Ecology

- 2.35 In furtherance to the loss of vegetation, which has been raised in the previous paragraph, concern has been raised that this loss of vegetation has resulted in the loss of protected species and their habitat. However, these works do not form a part of this application and are not, therefore, material to this assessment. Notwithstanding this, the applicant has a duty under the Habitats Directive and the Wildlife and Countryside Act 1981. Having regard for Natural England's Standing Advice, it is not considered that there is any significant likelihood that

the application site, at the time of the application, provides habitat to any protected or notable species.

Overall Conclusions

- 2.36 Subject to the provision of an amended drawing showing the removal of the pedestrian access from the site to Foster Way and the submission and agreement of a suitably worded legal agreement to secure the provision of affordable housing and Open Space contributions, it is considered that the development is acceptable in principle and in all material respects, subject to conditions. Furthermore, the Council is unable to demonstrate a deliverable five year housing land supply and, as such, weight must be given in favour of the development by virtue of providing an additional nine dwellings, within the settlement confines and in a relatively sustainable location.

g)

Recommendation

- I Subject to the submission and agreement of a s106 agreement to secure contributions and an amended plan showing the omission of the pedestrian access to Foster Way, PERMISSION BE GRANTED subject to conditions to include:-
- (i) approved plans, (ii) samples of materials to be used, (iii) details of landscaping, (iv) provision and retention of car parking, (v) provision and retention of cycle parking, (vi) provision and retention of access, (vii) construction management plan, (viii) details of the raised table, (ix) provision and retention of visibility splays, (x) details of surface water drainage, (xi) the first floor windows in the north west roof slope of units 2 to 9 inclusive to have a cill height of 1.7m above finished floor level, (xii) boundary wall to be provided to the north west boundary adjacent to Foster Way.
- II Powers to be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and to agree amended drawings and a s106 agreement, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Luke Blaskett