

a) **DOV/16/01119 – Erection of a 2 no. semi-detached dwellings and creation of access and parking - Land adjacent to Marshlands, Jubilee Road, Worth**

Reason for report: Issuing of the Ministerial Statement during the course of the application.

b) **Summary of Recommendation**

Planning permission be refused.

c) **Planning Policies and Guidance**

Core Strategy Policies

- 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 travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies.
- DM15 - Development which would result in the loss of, or adversely affect the character and appearance of the countryside will not normally be permitted.
- DM16 - Generally seeks to resist development which would harm the character of the landscape, unless it is in accordance with a Development Plan designation and incorporates mitigation measures, or can be sited to avoid or reduce the harm and/or incorporates design measures to mitigate the impacts to an acceptable level.

Worth Neighbourhood Plan

The Plan states that DDC Core Strategy Policy DM1 would apply to proposals for development outside the settlement confines.

National Planning Policy Framework (NPPF)

- Paragraph 11 states that planning law requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- Paragraph 12 states that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- Paragraph 14 states that for decision-taking this means... approving development proposals that accord with the development plan without delay.
- Paragraph 17 states that planning should:
 - be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area.
 - secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

- contribute to conserving and enhancing natural environment and reducing pollution.
 - Conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
 - Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable
- Paragraph 56 states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
 - Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.
 - Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils.
 - Paragraph 128 states that in where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
 - Paragraph 139 states that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

d) **Relevant Planning History**

DOV/15/01261 – Outline application for the erection of a detached dwelling (all matters reserved). Approved.

e) **Consultee and Third Party Responses**

Worth Parish Council

No objections.

Historic England

The field immediately behind the row of residential properties on Jubilee Road was identified as having buried archaeological remains of Romano-Celtic temple and Iron Age settlement site. These remains are designated as a scheduled monument (National Heritage List no 1004225). Further to the identification of the Scheduled monument, Historic England was of the view that because the build site occupies part of a clearly established line of residential properties, it is unlikely that the development will cause harm to the scheduled monument through development within its setting.

Also, given the high archaeological potential of the area, the County Archaeological Advisor was recommended to be consulted regarding this development.

County Archaeology

The site was identified as one with archaeological potential. Therefore, an archaeological field evaluation survey prior to determination was recommended. Following the results from the archaeological field evaluation survey, no objections have been raised subject to conditions.

Ancient Monument Society

Views not received.

f)

1. **The Site and the Proposal**

1.1. The site lies within the countryside, outside the Worth settlement confines. The application site comprises a plot of land fronting Jubilee Road and located to the north and south of two residential properties – Marshlands and Sea Marsh respectively. The site appears to have been in use as garden land associated with Marshlands and is subdivided by close-boarded fencing and hedging. To the front of the site is an existing vehicular access and driveway. The site measures approximately 55m by 15m. Marshlands would retain its own existing access and the front boundary wall would also remain.

1.2 Jubilee Road runs north from the Deal Road towards the village of Worth. Development along Jubilee Road predominantly comprises clusters of dwellings separated by gaps, some of which are substantial in size. These gaps are often formed by agricultural farmland, allowing long distance, open views across countryside when travelling along Jubilee Road.

1.3 The application seeks permission for the erection of 2 no. semi-detached dwellings including parking for 4 cars and vehicular access. The dwellings would each provide three bedrooms, a kitchen/dining room and a living room, together with bathrooms, en-suites, and utility and storage rooms. The total built-up area to be provided, per dwelling, is approximately 114sqm.

1.4 The dwellings would be finished in horizontal cream cedar boarding and red stock brickwork. The semi-detached pair would have a hipped roof which would be finished in mixed russet tiles (forticrete). The proposed dwellings would have timber front doors and white UPVC windows and French doors. Guttering and rain water pipes would be concealed within the building. The hard standings would be provided in block paving with sand infill (permeable) whilst the rear gardens of the dwellings would be subdivided by 1.8m high timber fencing.

2. **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the countryside and the street scene
- The impact on residential amenity
- The impact on the living conditions of future occupiers
- The impact on the highway network
- Archaeology

3. **Assessment**

Principle of the Development

- 3.1 The site lies outside of settlement confines, where Policy DM1 applies. Having regard for the wording of the policy, the erection of two dwellings in this location is contrary to Policy DM1. The general principle (set out in the preamble at paragraph 1.7 of the Core Strategy) is that residential development outside the urban boundaries and rural settlement confines would be a departure from policy and would require *“unusual and compelling justification for permission to be given”*.
- 3.2 The Worth Neighbourhood Plan (WNP) was adopted in 2014 and forms part of the Development Plan. It seeks to direct residential development to within the settlement boundary as identified by the Core Strategy. It allocates sites for housing; however, the application site has not been identified as a potential housing site to meet the housing need in the village which includes the provision of family housing. Rather the site and the adjoining residential properties are expressly identified in the WNP as falling within built environment that lies outside the settlement confines. Paragraph 3.23 of the WNP states that Policy DM1 would apply to proposals for housing development outside the settlement confines.
- 3.3 Members will be aware that the Council has historically been unable to achieve a 5 year housing land supply and that accordingly under paragraph 49 of the NPPF, relevant policies (including DM1) have not been held to be up-to-date and have therefore been afforded less weight in decision making. This was the case at the time the application was lodged and was taken into account by officers in the giving of initial advice on the proposal.
- 3.4 During the course of the application however a Ministerial Statement was published on 13th December 2016 which confirmed inter alia, provided a local authority can demonstrate a 3 year housing land supply, then in respect of Neighbourhood Plans, their policies relating to the supply of land for housing would not be deemed out-of-date. As at December 2016, Dover could demonstrate a 4.175 year housing land supply. Accordingly, the approach as set out in the Worth Neighbourhood Plan would no longer be out-of-date and should be afforded full weight as Development Plan Policy. The implications of this change are significant for considering the principle of development in this location.
- 3.5 Since the issuing of the Ministerial Statement, the Council’s latest 5 year housing land supply situation is contained within the 2015/2016 Annual Monitoring Report. This was been agreed by Cabinet (March 2017) and confirms that the Council can now demonstrate a 6.02 year housing land supply. As such the Development Plan Policies as they apply to the whole district are now considered up-to-date and have full force. The NPPF paragraphs 11, 12 and 14 require planning applications to be assessed in accordance with the up-to-date Local Plan and where the proposals conflict with the Plan they should be refused unless material considerations indicate otherwise.
- 3.6 While regard must be given to whether there are any material planning considerations that suggest that a departure from policy would be justified, the Core Strategy indicates that these would need to be of an unusual and compelling nature to warrant the grant of planning permission for residential development outside settlement confines.

Impact on the Character and Appearance of the Area

- 3.7 The area is rural in character, with small clusters of residential properties sporadically located along Jubilee Road. The site is within a sensitive location, being within the countryside, where policy DM15 applies. This policy directs that planning permission for development that adversely affects the character or appearance of the countryside should be refused, unless one of four criteria is met and the development does not result in the loss of ecological habitats.
- 3.8 Regard must also be had for whether the development would harm the landscape character of the area, in accordance with policy DM16. Where harm is identified, permission should be refused unless it is in accordance with the development plan and incorporates any necessary avoidance and mitigation measures, or can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.
- 3.9 The proposal would introduce a pair of dwellings onto an area of former garden land between two dwellings forming part of a row of detached and semi-detached dwellings fronting Jubilee Road. The impact of this would be to reduce the openness and spacing between the dwellings. It is considered that this would erode the prevailing semi-rural character at this point by consolidating the built frontage to Jubilee Road and removing the openness which compliments the wider rural setting. As such, the proposal would be contrary to Policies DM15 and DM16.
- 3.10 The proposed development would be a symmetrical pair of dwellinghouses with a traditional form, detailing and materials including redstock brickwork and boarding to the exterior façade and UPVC fenestration. Having regard for the scale, detailed design and proportions of the building, it is considered to respond to the prevailing character of the buildings within the locality area. However, this does not overcome the fact that the proposal would introduce two dwellings in a location where planning policies restrict development and seek to protect the countryside.

Impact on Living Conditions of Future Occupiers

- 3.11 The dwellings, together with individual rooms would be of a good size, whilst all habitable rooms would be naturally lit. Each property would be provided with a private garden and areas which could be used for refuge storage and general amenity space. As such, the living conditions of future occupiers would be acceptable.

Impact on Residential Amenity

- 3.12 The application site shares boundaries with Marshlands to the south and Sea Marsh to the north. The proposed dwellings would be sited at a distance of 4m and 2.5m from the side elevations of the properties 'Sea Marsh' and 'Marshlands' to the north and south respectively.
- 3.13 Sea Marsh to the north
The proposed dwellings would extend beyond the rear wall of Sea Marsh by approximately 1.5m; however, given the separation distance, no loss of light, sense of enclosure or overshadowing would result from the proposal. A window is proposed to the ground floor level to serve the living room; however, given the proposed 1.8m high wooden fence, no interlooking or overlooking would occur from this window. Another window has been proposed to the first

floor of the side elevation facing Sea Marsh however it would serve the bathroom and can be conditioned to be obscure glazed.

3.14 Marshlands to the south

Marshlands would extend beyond the rear wall of the proposed dwellings by 3m. Therefore, given the existing relationship between the two sites and the separation distance, it is not considered that the proposed dwellings would result in a loss of light, sense of enclosure or overshadowing. A window is proposed to the ground floor level to serve the living room; however, given the proposed 1.8m high wooden fence, no interlocking or overlooking would occur from this window. Another window has been proposed to the first floor of the side elevation facing Marshlands however it would serve the bathroom and can be conditioned to be obscure glazed.

3.15 There are no other properties in the vicinity that would be directly affected by the proposal.

Highways/Travel Impacts

3.16 The development would provide two new vehicular accesses onto the site from Jubilee Road. It should be noted that whilst the application site falls within the 30mph zone, the visibility splays would extend to the point where it would enter the 50mph zone. Having regard for the geometry of the road and the location of the accesses, the visibility splays which could be achieved would comply with those recommended for roads of this type (approximately 56m x 2.4m x 56m).

3.17 Table 1.1 of the Core Strategy suggests that a minimum of two independently accessible car parking spaces be provided for residents of the dwelling, together with an additional 0.2 spaces per dwelling for visitors, although parking should be a design-led process. The development would accommodate two open car parking spaces per dwelling, meeting the needs generated by the occupiers of the dwellings. No formal visitor parking is shown, although it would be relevant to note that there are parking bays along the street to the north. As such, the development would provide sufficient car parking provision. Equally, it is considered that the site provides adequate manoeuvring space.

3.18 The development does not include any defined provision of cycle parking spaces, as recommended by the Kent Design Guide (including Interim Guidance Note 3) and the NPPF. However, it is considered that the proposed sheds within the gardens would be more than sufficient to provide the three cycle spaces which would be recommended for dwellings of the size proposed.

3.19 Regard has also been had to the Policy DM11 which states that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. The proposed dwellings would give rise to some additional travel in a location beyond settlement confines where the Plan restricts such development and as such would be contrary to policy. That said, it is recognised that the Deal/Sandwich bus route uses Jubilee Road and that there are bus stops near the site. There is also a lit footpath with access into the historic centre of Worth, some 800m distant. In the circumstances, while the proposal would

work against sustainable travel objectives, it is likely that the harm would be more limited than might otherwise be the case.

Archaeology

- 3.20 The field immediately behind the row of residential properties on Jubilee Road was identified as having buried archaeological remains of Romano-Celtic temple and Iron Age settlement site. These remains are designated as a scheduled monument (National Heritage List no 1004225). Given the proximity of the Scheduled monument to the application site, Historic England was consulted. They raised no objection but advised that given the high archaeological potential of the area, the KCC Archaeological Advisor should be consulted.
- 3.21 KCC advised that an archaeological field evaluation survey be undertaken prior to the determination of the application. It demonstrated that significant archaeology survives at the site, seemingly related to a major Iron Age settlement. Further to the survey, the applicant has proposed that by using a combination of a shallow depth raft foundation and the localised building up of ground levels, it is possible for the development to safeguard the significant archaeology through preservation in situ – i.e. by keeping the foundations above the archaeology. Having regard for the above, KCC Archaeology have suggested that the proposed development could be accommodated subject to appropriate conditions to secure the archaeological safeguarding measures.

Fall-Back Position

- 3.22 Planning permission (outline) exists on the site for one detached dwelling. This was granted under DOV/15/01261 and at a time when the Council was unable to demonstrate a 5 year housing land supply meaning that Development Plan Policies restricting residential development were afforded reduced weight. This fact was particularly material in the on balance decision to approve the application. The permission expires February 2019.

Conclusion

- 3.23 The application involves two dwellings located outside the village confines of Worth. The proposal would be contrary to Development Plan Policy which as a consequence of the recent Ministerial Statement and the achievement of a district 5 year housing land supply are now up-to-date and can be afforded full weight. The proposal would work against the objectives associated with countryside protection and sustainable travel. With the full weight now applied to the Development Plan policy, it is considered that the application should be refused unless material planning considerations indicate otherwise. The Core Strategy pre-ambles suggests that such material planning considerations would need to be unusual and compelling to justify permission being granted. While the fall-back position (arising from DOV/15/01261) is relevant, that proposal is for one dwelling, whereas the current application is for two, which exacerbates the concerns relating to the loss of openness and the consolidation of the built frontage and the conflict with sustainability (in particular travel) objectives. It is not considered that any other material considerations apply in this case (having regard also to the matters set out at Part c) of the report) that would outweigh the conflict with policy.

- 3.24 A core principle of the NPPF (paragraph 17) is that planning should be genuinely plan-led ...[and]... should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.
- 3.25 It is recognised that the change in the weight afforded to policy has emerged part way through the assessment of this application and in this respect, some sympathy is extended to the applicant who, on the basis of earlier officer advice had thought that the proposal might be acceptable and did incur expense associated with KCC's requirement for a pre-determination archaeological evaluation. Notwithstanding, the nature of the planning process is such that material considerations and the weight to be given to issues can change and evolve, sometimes suddenly in response to changes in policy and Government Guidance. In this case, the Ministerial Statement issued in December 2016 (followed by the achievement of a 5 year housing land supply) altered the planning balance immediately and substantially, with primacy now to be given to the Development Plan policies. For this reason, the recommendation at g) below is to refuse planning permission.
- 3.26 While this application was capable of determination under delegated powers, in view of the circumstances outlined at paragraph 2.26 above, it was considered appropriate to report this matter to Committee.

g) **Recommendation**

- I Planning Permission be REFUSED for the following reason:

The proposed development by virtue of its location outside of the Worth settlement confines, in a rural location, would result in an undesirable intensification of development in the countryside, detrimental to the rural character and appearance of the street scene at this edge of village location and detrimental to the objectives of sustainable development contrary to policies DM1, DM11, DM15 and DM16 of the Dover District Local Plan and contrary to the provisions of the Worth Neighbourhood Plan and paragraphs 17 and 109, in particular, of the National Planning Policy Framework.

Case Officer

Benazir Kachchi