

- a) **DOV/17/00514 – Variation of condition 2 of planning permission DOV/15/00327 to allow changes to approved plans (application under section 73) – Land at 43 Dola Avenue, Deal**

Reason for report: Called to committee by Cllr. Bond to allow members to consider the impacts of the development on the character and appearance of the area and on the living conditions of neighbouring properties. It is also considered that, for consistency, the application should be determined by planning committee as the previous applications have been determined by planning committee.

- 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.
- CP3 – Of the 14,000 houses identified by the plan 1,200 (around 8%) is identified for the rural area.
- 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.
- 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.

Land Allocations Local Plan

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

National Planning Policy Framework (NPPF)

- Paragraph 7 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that “planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise”.
- Paragraph 12 states that the NPPF does not change the statutory status of the development plan. Development which accords with an up-to-date development

plan should be approved and development which conflicts should be refused unless other material considerations indicate otherwise.

- Paragraph 17 of the NPPF sets out 12 Core Planning Principles which, amongst other things, seeks to: proactively drive and support sustainable development; secure high quality design and a good standard of amenity for all existing and future residents; 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 49 of the NPPF states that “housing applications should be considered in the context of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of housing sites.
- Chapter 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.
- Chapter six of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years’ worth of housing. 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**

DOV/15/00327 – Erection of 9 chalet bungalows, associated parking and vehicular access – Granted

DOV/16/00998 – Erection of two detached dwellings and creation of parking – refused (currently at appeal)

DOV/16/01038 – Variation of condition 2 of planning permission DOV/15/00327 to allow amendments to the approved plans (amendments to the rear dormer roof extensions on chalet bungalows and alterations to fenestrations) (section 73 application) – Refused (currently at appeal)

DOV/17/00194 – Variation of condition 2 of planning permission DOV/15/00327 to allow amendments to the approved plans (amendments to the rear dormer roof extensions on chalet bungalows and alterations to fenestrations) (section 73 application) - Refused

In addition to the above applications, 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 – 2No. 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**

Environment Agency: No comments made

KCC Highways and Transport: No objection, subject to the conditions attached to application DOV/15/00327 being applied to this application.

Southern Water: No objection

Environmental Health: No objection

Third Parties/Neighbours:

Three letters of objection have been received, raising the following concerns:

- Loss of privacy
- The windows would be overbearing and would lead to a sense of enclosure
- The windows would not be in keeping with nearby properties

In addition, one petition has been submitted in support of the application. This petition includes ten signatories and is accompanied by letters of support which were submitted by the signatories in respect of a previous application for the site.

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. The former garden to this dwelling was granted planning permission, under application number DOV/15/00327, for the erection of nine dwellings which are nearing completion. A Public Right of Way (ED21) runs along the north east boundary of the site.

1.3 This application seeks to vary condition 2 which was attached to planning permission DOV/15/00327, to amend the design of the approved chalet bungalows. The amendments to the design of each of these properties comprise the replacement of one pitched roof dormer window and one roof light to the rear roof slope with one wider flat roofed dormer window, together with the alteration to the side fenestrations of the building to reduce the size of a side window. As approved under the previous application, 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.

1.4 This application is identical to the scheme which was submitted under application number DOV/16/01038. That application was recommended for approval by officers but was subsequently refused at planning committee for two reasons, namely:

- 1) The proposed dormer windows to the rear (north west) roof slopes of the dwellings, by virtue of their size, location and proximity of neighbouring properties, would cause an unacceptable sense of enclosure to, and overbearing impact on, neighbouring properties (No.'s 25 and 27 Foster Way and No.41a Dola Avenue in particular), significantly harming the residential amenities of the occupiers of those properties, contrary to the aims and objectives of the National Planning Policy Framework, in particular paragraphs 17, 56, 63 and 64.
- 2) The proposed dormer windows to the rear (north west) roof slopes of the dwellings, by virtue of their size, flat roofed design and prominent location, would cause significant harm to the character and appearance of the area, contrary to the aims and objectives of National Planning Policy Framework, in particular paragraphs 58, 59, 60, 61 and 64.

## 2. **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the area
- The impact on neighbouring properties

### **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.

#### Character, Appearance and Heritage

2.3 The proposal is the same as the previously approved scheme save for the replacement rear dormer and alterations to the side fenestrations and is identical to the refused application DOV/16/01036. The layout of the development would continue to 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 and provide a scale of building which responds to the building types within the area. 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.

2.4 As identified by the report for the previous application, the design of properties in the area varies 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.

- 2.5 The proposed dormer to the rear roof slope would be flat roofed and span the majority of the width of the building. These dormers would replace the approved, smaller, dormers and roof lights. It is considered that the dormers would be more pronounced features compared with the modestly sized dormers which have been approved. However, it is noted that similar dormer windows (albeit slightly narrower and having full size windows as opposed to high level windows) are present on No.'s 25, 27 and 26-40 (even) Foster Way. It is considered that the only public views of these rear elevations, other than very limited glimpse views, would be of the two dwellings to the south west of the row which would be visible from Foster Way. In these views, the properties would be seen in conjunction with No.'s 25, 27 and 26-40 (even) Foster Way and, consequently, it remains the opinion of officers that they would not appear incongruous or out of character. This conclusion is contrary to that of the previous refusal for DOV/16/01036 which is a material consideration. Whilst weight is attached to this previous refusal, given that only dormers on two of the buildings would be highly visible and given that their scale and design is comparable with those on the existing properties in Foster Way it is not considered that the scheme would cause such harm so as to warrant refusal, albeit this is a balanced assessment.
- 2.6 The fenestration to the side elevation of each dwelling is also proposed to be amended from the approved scheme. The fenestration would remove the window located under the eaves of the building. Whilst the approved elongated window would have been an interesting feature on the buildings, the side elevations will be little seen from outside the site and, as such, this proposed change would not significantly impact on the appearance of the buildings or the character of the area. This change did not represent a reason for refusal of the previous application.
- 2.7 Having regard for the mixed character of the area and the strong design of the development as a whole, it is considered that the proposed amendments would not unacceptably detract from the design of the scheme or the character and appearance of the area. Regard has been had for the previous refusal.
- 2.8 The development would retain the previously approved front garden areas and landscape margins along the sides of the access road. The plans show that these areas include the provision of thirty-eight new trees which would significantly soften the site and provide maturity to the development. As was the case when determining the previous application, it is considered that it would be reasonable to secure the provision and maintenance of the proposed landscaping by condition.
- 2.9 The dwellings are now nearing completion and the materials used are evident. These materials are considered to be acceptable and, as such, the condition requiring samples of the materials to be submitted for approval is no longer required.

### Impact on Residential Amenity

- 2.10 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.
- 2.11 The amended dormers would be located to the rear roof slopes of the buildings, facing north west. 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. Whilst the buildings would not be set any closer to these neighbours, the proposed dormers would be larger than those previous approved and, as such, regard must be had for whether the changes to these dormers would cause any additional and unacceptable harm.
- 2.12 The first reason for refusal of application DOV/16/01038 cited the dormer windows to the rear (north west) roof slopes of the dwellings as causing an unacceptable sense of enclosure to, and overbearing impact on, neighbouring properties (No.'s 25 and 27 Foster Way and No.41a Dola Avenue in particular) by virtue of their size, location and proximity of neighbouring properties.
- 2.13 The approved scheme included first floor dormer windows and roof lights to the rear roof slope, facing towards No.27 Foster Way and 41 and 41a Dola Avenue. The approved windows had been designed with cill heights of 1.7m above the finished floor level of the rooms they serve and, as such, it was concluded that they would not cause any unacceptable overlooking. The proposed windows would also have a cill height of 1.7m above finished floor level and would serve bathrooms and en-suite/dressing rooms. The applicant has confirmed that these windows would have obscure glazing. As such, the glazing would be comparable with that previously approved and would not cause any unacceptable overlooking. Overlooking had not previously given rise to concern.
- 2.14 Regard must also be had for whether the proposed dormer would cause unacceptable loss of light or sense of enclosure, particularly given the context that the previous decision cited sense of enclosure and overbearing as a reason for refusal. Whilst the proposed dormers would be wider than the approved dormers, they would remain set back from the rear elevation of the building by around 1m, comparable with the approved dormers. The height (1.5m) and depth (1.8m) of the dormers would also be comparable with the approved dormers. As such, officers remain of the opinion that the increased width of the dormer would cause an unacceptable loss of light or sense of enclosure to properties to the north west although, again, this is a balanced assessment.
- 2.15 The second change proposed is the reduction in size of the windows to the side elevations of the properties, removing the highest window, which would have been located just under the eaves. The window would also be cut by the canopy over the door. The removal of these windows would cause no additional overlooking and would not, therefore, cause any loss of amenity.
- 2.16 For these reasons, it is not considered that the proposed amendments would cause any additional harm to the amenities of neighbouring properties.
- 2.17 In considering the previous application, it was established that the living conditions of future occupiers would be acceptable. The proposed changes

would not reduce the residential amenities of future occupiers and, as such, the living conditions for future occupiers are considered to be acceptable.

#### Impact on the Local Highway Network

- 2.18 The proposed access and parking arrangement remain unchanged from that which was granted under application number DOV/15/00327, with the site accessed via a single means of access from Dola Avenue.
- 2.19 The access would incorporate a ramped speed table adjacent to where it joins onto Dola Avenue and would have visibility splays of 2m by 3m. The previous permission included a condition requiring that signage be erected at the entrance to indicate that pedestrians have priority and to lower the speed limit to 10mph.
- 2.20 Details of these signs, together with details of the ramped speed table have been submitted and, following consultation with KCC Highways and Transport and KCC PRow, have been discharged. As such, it is considered that the proposed access and car parking, being consistent with the previous approval, is acceptable.
- 2.21 The previous permission also included a condition which required that a wall, 1.8m in height, be erected along the north western boundary of Unit 9, along the boundary with Foster Way. This condition required that the wall be erected prior to the development commencing. The reason for this condition was to ensure that construction traffic is prevented from entering or exiting the site from or to Foster Way. Whilst the wall was not erected prior to the commencement of the development, it has now been erected. It is considered that it would be reasonable to include a condition requiring the wall is retained in perpetuity.
- 2.22 The previous permission also included a condition which required details of cycle parking. These details have subsequently been approved and, as such, this condition can be amended to omit the requirement to submit details, but retain the need to provide the approved cycle parking, prior to occupation.

#### Surface Water Drainage

- 2.23 When the previous application (DOV/15/00327) was considered at Planning Committee, Members questioned whether the development could provide adequate surface water drainage. However, following the provision of additional information, the application was granted.
- 2.24 The proposal does not seek to amend the method of surface water drainage, which will continue to discharge surface water to ground via soakaways and through permeable hardstandings. The testing which took place under the previous application confirmed that such a method is feasible and, accordingly, a condition was added to the permission requiring full details of the sustainable drainage scheme, and full details of its subsequent maintenance. This application includes additional information relating to surface water drainage, which has calculated the surface water run-off from the site (based on a 1 in 100 year storm, plus 30% to account for climate change), the infiltration rates of the ground (which have been carried out to the relevant Building Research Establishment standards) and, consequently, the amount of surface water storage required to ensure that the rainfall in an extreme event can be slowly discharged to ground. The storage required

under this design event is 37.33cu.m. The proposal includes the provision of 39cu.m. of storage. The design of the permeable hardstandings also allow water to be stored and slowly discharged to ground, having regard for the relatively slow infiltration rates. The Lead Local Flood Authority have confirmed that this additional information is satisfactory and has advised that condition 7 can be discharged. It is therefore considered that condition 7 can be amended to require that the agreed drainage scheme is carried out.

### Contributions

- 2.25 Core Strategy Policy DM5 requires that for schemes of 5 to 14 dwellings an onsite provision of affordable housing or an equivalent financial contribution (or a combination of both) will be required. The approved application was the subject of a legal agreement which secured a financial contribution of £89,977.50 towards the provision of off-site affordable housing, which is equivalent to 5% of the Gross Development Value of the scheme, in accordance with the Councils Affordable Housing SPD.
- 2.26 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. The legal agreement attached to the previous application also secured a financial contribution of £5,690 towards the provision of a dual use tennis and netball court at Victoria Park.
- 2.27 The legal agreement included a clause which stipulated that any subsequent approval under Section 73 or 73A of the Planning Act, such as the current application, would also be bound by the same requirements to provide financial contributions towards open space and affordable housing. It is considered that these contributions remain reasonable and ensure that the development would meet the requirements of Policies DM5 and DM27 respectively.

### Trees

- 2.28 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. The granted application allowed for the felling of this tree, on the basis that the application proposed the provision of a total of thirty-eight trees. Whilst these trees would be significantly smaller than the Sycamore to be felled, it was concluded that overall they would provide an enhancement.
- 2.29 The current application also proposes to fell the Sycamore, whilst the proposed landscaping would remain unaltered. It is therefore considered that the loss of this tree is acceptable, subject to the condition requiring full details of all landscaping being reimposed.

### Overall Conclusions

- 2.30 This application seeks to amend the previously approved scheme, enlarging the rear facing dormers and amending the window design to the side elevations of buildings. The application also includes details which address some of the conditions which were attached to the previous permission. This application is identical to application DOV/16/01034, which was refused by



planning committee. However, whilst this is a balanced assessment, it is considered that the development is acceptable in principle and in all material respects, subject to conditions. In particular, the proposed changes to the design of the development, comprising amended dormer design and fenestrations, would cause no significant harm to the character and appearance of the area or the amenities of neighbouring properties and would be acceptable in all other material respects. It is therefore recommended that planning permission be granted.

g)

**Recommendation**

I PERMISSION BE GRANTED subject to conditions to include:

(1) approved plans; (2) details of landscaping; (3) provision and retention of car parking; (4) provision and retention of cycle parking; (5) surface water drainage to be fully implemented; (6) visibility splays to be provided and retained; (7) raised table to be provided and retained; (8) provision and retention of visibility splays (9) the first floor windows in the north west roof slope of units 2 to 9 inclusive shall have a cill height of 1.7m above finished floor level and shall be fitted with obscure glazing; (10) removal of permitted development rights for additions or alterations to the roof (including the provision or alteration of dormers or roof lights); (11) the boundary wall which has been erected to the north west boundary of unit 9, adjacent to Foster Way, shall be retained.

II Powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Luke Blaskett