

- a) **DOV/17/00504 – Outline application for the change of use of land and the erection of a detached agricultural worker’s dwelling, including new access (existing access to be closed) (details of appearance, landscaping and layout reserved) - Oak Meadow, Walderchain Farm, Lodge Lees, Denton**

Reason for report – Member call-in (Councillor M J Ovenden).

- b) **Summary of Recommendation**

Refuse permission.

- c) **Planning Policy and Guidance**

Development Plan

The development plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act (2004) comprises the Dover District Council Core Strategy 2010, the saved policies from the Dover District Local Plan 2002, and the Land Allocations Local Plan (2015). Decisions on planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise.

In addition to the policies of the development plan there are a number of other policies and standards which are material to the determination of planning applications including the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG) together with other local guidance.

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

CP1 – Settlement hierarchy
DM1 – Settlement boundaries
DM15 – Protection of the countryside
DM16 – Landscape character

Saved Dover District Local Plan (2002) policies

None.

Dover District Land Allocations Local Plan (2015)

None.

National Planning Policy Framework (NPPF)(2012)

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

12. This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. 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...

14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking...

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

17. Core planning principles... planning should...

- take account of the different roles and character of different areas... recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it...

55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
 - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
 - reflect the highest standards in architecture;
 - significantly enhance its immediate setting; and
 - be sensitive to the defining characteristics of the local area.

115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas...

Other Considerations

Kent Downs Area of Outstanding Natural Beauty
Kent Downs AONB Management Plan 2014 – 2019

SD1 – The need to conserve and enhance the natural beauty of the Kent Downs AONB is recognised as the primary purpose of the designation and given the highest level of protection within the statutory and other appropriate planning and development strategies and development control decisions.

SD2 – The local character, qualities and distinctiveness of the Kent Downs AONB will be conserved and enhanced in the design, scale, setting and materials of new development...

SD8 – Proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB will be opposed unless they can be satisfactorily mitigated.”

LLC1 – The protection, conservation and enhancement of special characteristics and qualities, natural beauty and landscape character of the Kent Downs AONB will be supported and pursued.

d) **Relevant Planning History**

DOV/14/00029 – Erection of a detached agricultural workers dwelling and construction of a vehicular access – REFUSED.

DOV/13/00619 – Erection of a detached agricultural workers dwelling – WITHDRAWN.

e) **Consultee and Third Party Responses**

DDC Landscape and Ecology – does not support

There is nothing to add on ecology. As to the AONB, given there appears to be no functional need for the proposal, DM15 is relevant. Given that the area is AONB and subject to NPPF 115, then I would suggest the case for development here would have to be exceptional in terms of addressing local landscape character and design. This is not achievable through an outline application. Irrespective of the above, as I recall there is no settlement, just a loose knit set of dwellings characterised mainly by the spaces between them (the dwellings being discrete). As such development is likely to be detrimental to the local character of this part of the AONB.

Rural planning adviser – does not support

“You will recall that this proposal was first submitted under DOV/13/00619 but was later withdrawn. In my letter of 11 September 2013 (copy attached) I explained the relevant policy background and the circumstances of the particular case. I saw no factors amounting to an essential functional need (as opposed to convenience) for a rural worker's residence on this site, which itself overlooks no agricultural buildings or yard where critical activities require close attention, and which is some 0.5 miles from the single modern building which serves as the base of the applicant's farming operation. The associated land is spread out in various locations in the general area of Barham, Denton and Elham.

I referred to the existence of potentially suitable alternative 3 to 5 bedroom dwellings, with good parking provision, for sale in the £300,000 - £400,000 range - just in Barham itself. Barham is only slightly further from the applicant's building than is the proposed site.

A further application was submitted under DOV/14/00029. That submissions included reference to work which Mr Wake-Smith does from time to time for Messrs Goddard, dairy and arable farmers at South Barham Farm, working as a contractor for these farmers, including helping with calvings, and repairing the milking parlour.

However I pointed out, in my letter of 21 January 2014 (also attached) that the proposed site is a mile from South Barham Farm, which is also a mile from Barham. Mr Wake-Smith (or any other contractor) could equally be contacted and called in to South Barham Farm at short notice from an existing residence elsewhere in the area. In any event there could be no ongoing guarantee for Messrs Goddard that the proposed dwelling would continue to be used by anyone undertaking work for them.

DOV/14/00029 was refused 03 March 2014; the decision notice included reference to no overriding justification having been demonstrated, having regard to relevant local and national planning policies.

The latest application does not appear to put forward any different case, amounting to an essential need to reside at this particular site, to that which was considered inadequate previously.

The Planning Statement says that “a recent search of the market shows no property available for less than £700,000” (within what is referred to as the proximity of the centre of the applicant’s business - a single modern farm building about 0.5 miles north of the application site), but such a consideration would only arise if there were a clearly established essential functional need to live that close to that location. That is not the case.

As it happens there are, (or have been, as previously advised) a variety of much lower-priced properties for sale within a mile or two of this identified centre of the applicant’s business. In summary, my view remains that no essential need has been demonstrated for the provision of an agricultural dwelling, amounting to special circumstances under para. 55 of the NPPF, at the application site.”

Southern Water – observations

Advises that no public sewers are located near to the site. Site is within an SPZ (source protection zone). Private waste water works would need to be consultation with the Environment Agency.

Denton Parish Council – no objection

The Parish Council has 'No Objections' to the proposal.

Public comments – support x 2

- Applicant is well known member of agricultural community – application is genuine.
- Close proximity would assist running of dairy farm – matters of minutes are relevant.
- Applicant’s experience is hard to come by – applicant has worked in the local farming industry for 30 years.

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

1.1. The Site

The site is located west of Denton, within the Kent Downs AONB, on the eastern side of Lodge Lees Road. It is approximately 85 metres from the district boundary with Canterbury (at the junction of Lodge Lees Road and Walderchain). It lies far outside of any rural confines in a loosely populated area.

- 1.2. The site is currently within an area typified by sporadic dwellings and buildings in a wide unspoilt, rural landscape typical of AONB character and landscape. Residential properties are located beyond its southern and northern/eastern boundaries. These boundaries are formed of mature hedge. Where the site is bounded by Lodge Lees Road the boundary is formed of a 1 metre tall post and wire fence. The site is open to views in from the road. On the opposite side of Lodge Lees Road is Walderchain Wood and another residential property.

- 1.3. In the eastern part of the site is an area of hard standing which appears to have once accommodated a structure. The 1990 aerial photograph appears to show this structure in situ but on subsequent images it has been removed.
- 1.4. Approximate site dimensions are:
 - Width – 45.5 metres.
 - Depth – 34.5 metres.
 - Area – 0.04 hectares.
- 1.5. Application DOV/14/00029 for an agricultural workers dwelling was refused for the following reasons:

“The proposal to erect a dwelling on this site, which lies outside the built confines of any town or village, with no overriding justification having been demonstrated, would give rise to an unnecessary, unsustainable, and harmful form of development which would fail to conserve the landscape and scenic beauty of the Area of Outstanding Natural Beauty, be detrimental to the environment in general and to the character and appearance of the countryside through the introduction of further sporadic residential development. The proposed development is therefore contrary to Policies DM1, DM11 and DM15 of the Dover District Core Strategy (2010) and the core sustainability objectives of the National Planning Policy Framework (NPPF) and in particular policies contained within Sections 4, 6 and 11.”

And for a second reason relating to a lack of ecological information.

1.6. The Proposal

The proposal is an outline application for the erection of an agricultural workers dwelling. All matters except access and scale are reserved.

- 1.7. Layout is a reserved matter, however, the indicative drawing illustrates a dwelling located approximately in the centre of the site and turned at an angle from the highway.
- 1.8. Access to the site would be located approximately half way along the site frontage.
- 1.9. The [outline] dimensions of the proposed building are:
 - Width – 15 metres.
 - Depth – 12 metres.

No indication is given regarding the height of the dwelling.

- 1.10. The indicative drawing suggests that the site boundaries would be landscaped including the road facing boundary.

2. Main Issues

- 2.1. The main issues to consider are:
 - Principle and need for the development
 - Countryside impact and AONB
 - Ecology
 - Residential amenity
 - Highways

3. Assessment

3.1. Principle and Need for the Development

The site is located far outside of settlement boundaries or rural confines. Accordingly the proposed development would normally be considered to be unacceptable in principle, subject to the details of policy DM1 or any material considerations.

3.2. Policy DM1 can permit development outside of settlement boundaries where it functionally requires such a location. This coincides with the part of NPPF paragraph 55 relating to development that requires a countryside location.

3.3. The applicant has sought to justify the proposed dwelling, stating that it would allow him to “better farm the land”, specifically for the following reasons;

- Sustainable travel to work (currently travels from outside of the district).
- Enabling faster responses to any issues at work (would be located closer).
- Security of machinery being located closer to business.
- Allowing investment in business, in turn increasing client base.
- No market properties available in close enough proximity to the business for under £700,000.

3.4. The question is whether these factors amount to a functional need as required by policy DM1 or paragraph 55 in the NPPF. The rural adviser notes that in the previously withdrawn application, the applicant put forward reasons more akin to convenience than as a functional need. The rural adviser has reviewed confidential financial information submitted by the applicant but even so, has drawn a largely similar conclusion, that “no essential need has been demonstrated for the provision of an agricultural dwelling, amounting to special circumstances...”. The full detail of the rural adviser’s comment is shown above in the comments section.

3.5. A public comment notes that the applicant has worked for the local farming industry for 30 years. This would appear to suggest that for 30 years the applicant’s arrangements as they currently are have functioned to an acceptable standard.

3.6. The report for the application under DOV/14/00029, which was refused, drew a largely similar conclusion in relation to the case made attempting to justify the dwelling as being an agricultural necessity.

3.7. Accordingly, it is considered that the proposed development has not demonstrated a functional requirement as specified by policy DM1, and in the same consideration it has not shown an essential need for a rural worker to live permanently at or near their place of work in the countryside, as specified by NPPF paragraph 55.

3.8. The proposal is therefore considered unacceptable in principle.

3.9. Countryside Impact and AONB

Policy DM15 seeks to protect the countryside. Development will only be permitted if it is in accordance with allocations made in the development plan, is justified by the needs of agriculture, or justified by a need to sustain the rural economy or a rural community. In addition it must be shown that the

development cannot be accommodated elsewhere and does not result in the loss of ecological habitats. As addressed above, it is not considered that the proposed development is justified by the needs of agriculture. It is neither in accordance with any allocations or needed to sustain a rural economy or rural community. Therefore the proposal is considered not to be in accordance with policy DM15.

- 3.10. The site location within the Kent Downs AONB affords it “the highest status of protection in relation to landscape and scenic beauty” in the NPPF. The DDC landscape and ecology officer notes that the case for development in such a location would need to be “exceptional in terms of addressing local landscape character and design”. Policy DM16 relating to landscape character and NPPF paragraph 55 address these issues.
- 3.11. Policy DM16 states that development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in the development plan, incorporating any necessary mitigation; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate impacts to an acceptable level.
- 3.12. The landscape and ecology officer notes the loose knit character of the dwellings located near to the application site, recognising that the character is formed as much by the spaces in between dwellings, as by the dwellings themselves.
- 3.13. Policies SD1, SD2, SD8 and LLC1 of the Kent Downs AONB Management Plan each seek to preserve the AONB designated landscape, or where development is shown to be a necessity, conserve and enhance local characteristics through the detail of the development i.e. its design, scale, setting and materials.
- 3.14. The site is not allocated in the local plan. Paragraph 55 identifies that exceptions for local housing can be made if there is an essential need for a rural worker to live at or near their place of work. In such cases, as the dwelling would be for a rural worker, then whilst the development would not necessarily have to be ‘exceptional’ or ‘innovative’, there would be a need nonetheless to require a high standard of design for such a building in this extremely sensitive, nationally protected location. Due to the application being outline in form, and matters of appearance, landscaping and layout being reserved. In any case, the weight of policy militates against allowing a new dwelling without justification in this location.
- 3.15. Accordingly, the development as proposed is considered to be unacceptable in terms of its appearance and its effect on the countryside and the AONB in particular. It is contrary to Core Strategy policies and the guidance contained in the NPPF.

3.16. Ecology

The submitted ecology report concludes that it is unlikely that the proposed development would result in adverse impacts to biodiversity if mitigation measures included in the report are implemented.

- 3.17. The proposed development is therefore considered acceptable on ecology grounds.

3.18. Residential Amenity

It is not considered that any undue harm to residential amenity would arise from

the proposal, due to the location of the site and the nature of the neighbouring residential properties i.e. distance and intervening boundaries.

3.19. Highways

The proposed development is for one dwelling accessing an unclassified road. As such, it falls outside of the KCC highways consultation protocol.

3.20. It is considered unlikely that one new dwelling accessing the highway at this location, where the bend in the road allows for extended visibility in both directions, would create a severe impact in highways terms.

3.21. In terms of the Core Strategy, policy DM11 directs that development that would generate travel will not be permitted outside of the... rural settlement confines unless justified by development plan policies. The proposed dwelling is not justified by any development plan policies, therefore the proposal is contrary to policy DM11 and is considered unacceptable on this basis.

3.22. Conclusion

The proposed development could only be permitted based on two considerations, the first being that it has been proven to be functionally necessary for the purpose of agriculture and second that it can be satisfactorily accommodated within the AONB, such that its design and any mitigation measures, would work to conserve and enhance the local character and the reason for which the AONB is nationally designated.

3.23. Letters of support referring to the applicant's good standing and history in the local farming industry are noted. However, the need for the development appears unproven and appears to suggest that the proposal is made primarily for convenience.

3.24. The rural adviser suggests that the case is not proven and that in recent history potentially suitable accommodation has been available for sale in Barham, which could have provided an alternative to this proposal. The development is therefore not justified as there is no functional need for it to be in a location outside confines in this sensitive location contrary to the development plan and the NPPF.

3.25. In terms of the site location in the AONB, for a development to be permitted it needs to conserve and enhance the characteristics of the local area. For such an assessment to be made, design details and potential landscape mitigation measures would need to be understood, but the application is outline in form and this detail has been reserved. As such, the necessary assessment of the proposal cannot be made and accordingly there is no exception to the normal restraint policy that would apply.

3.26. The proposed development is therefore considered to be unacceptable.

g) Recommendation

- I. Planning permission be REFUSED for the following reason: The development would, if permitted, result in an unjustified form of development which would be harmful to the setting, appearance, character and quality of the countryside and Kent Downs AONB, which has the highest level of protection, contrary to Core Strategy policies DM1, DM11, DM15 and DM16, the aims and objectives of NPPF paragraphs 11, 12, 14, 17, 55 and 115 in particular, and policies SD1,

SD2, SD8 and LLC1 of the Kent Downs AONB Management Plan.

- II. Powers to be delegated to the Head of Regeneration and Development to settle any reasons for refusal, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Darren Bridgett