

- a) **DOV/16/01496 – Change of use to residential dwelling-house, change of use of land to garden land, alterations to an existing field access, and formation of parking and turning area - Piglet Place, Fleming Road, Barnsole, Staple**

Reason for Report: Called in by Councillor Bartlett.

- b) **Summary of Recommendation**

Planning permission be refused

- c) **Planning Policy and Guidance**

Core Strategy Policies

CP1 – Settlement hierarchy

DM1 – Settlement Confines

DM4 – Re-use or conversion of rural buildings

DM11 – Location of development and managing travel demand

DM13 – Parking provision

DM15 – Protection of the Countryside

DM16 – Landscape Character

NPPF

Paragraph 6 – Recognises that the purpose of the planning system is to contribute to the achievement of sustainable development.

Paragraph 7- Outlines the three dimensions of sustainable development, which has an economic role, social and environmental role.

Paragraph 14- states that 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.

Paragraph 28- states that planning policies should support sustainable rural tourism and leisure developments that benefit business in rural areas, communities and visitors and which respect the character of the countryside.

Paragraph 49- States that housing applications should be considered in the context of the presumption in favour of sustainable development. In addition to the above, it states that 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.

Paragraph 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.

Paragraph 56 - emphasises 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 131, 132 & 134 – highlights the desirability of sustaining and enhancing the significance of heritage assets with great weight to be given to the asset's conservation – the more important it is, the greater the weight should be. Where a proposal would lead to less than substantial harm to a heritage asset, this harm should be weighed against the public benefits of the proposal.

Kent Design

Identifies (at 2.1.2) that as a general rule it's desirable for dwellings to be within 400m of a bus stop.

Planning and Compulsory Purchase Act 2004

Section 38(6) requires that the determination of planning applications determined under the planning Acts must be made in accordance with the plan unless material considerations indicate otherwise.

Planning Act (Listed Building and Conservation Areas) 1990

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest it possesses.'

When evaluating proposals, the statutory duties must be applied, and considerable importance and weight must be given to any predicted harm.

d) **Relevant Planning History**

89/01727 – Planning Permission granted for conversion of a barn to holiday accommodation, with a condition restricting the use to holiday accommodation for people whose primary residence is elsewhere.

e) **Consultee and Third Party Responses**

Staple Parish Council: Positively supports the proposal

Public Representations: One letter of objection has been received from the owner of Rose Cottage, opposite, objecting to the proposal on the grounds of highway safety. They state that the road is already extremely busy with cars, lorries and farm vehicles; any increase in traffic would increase the probability of a serious accident; and that the front wall of Rose Cottage, opposite the entrance to the application site, has been damaged several times by vehicles swerving to avoid each other.

Three letters of support have been received from members of the public with the following material reasons:

- The change of use will have no impact on the visual appearance of the property or the area.
- The access to the site will be improved.
- The property is close to buses to Dover and Canterbury.
- There is no impact on the community.

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

- 1.1 Piglet Place is a two bedroomed detached cottage with a restrictive condition to be used only as a holiday let. It has an outdoor swimming pool in the back garden, and attached outbuildings providing a games room, pool changing room and utility room.
- 1.2 The property also has a large store attached to it, accessed externally, with an open shelter and workshop.
- 1.3 The application site lies within the hamlet of Barnsole, comprising a loose cluster of properties fronting the rural road network to the east of the village of Staple. The site is surrounded on three sides by land belonging to the applicants, who reside at Greengage Cottage immediately to the west of the site. Land to the east is identified as 'paddock' on the submitted plan. There is woodland to the south.
- 1.4 The application site fronts and is accessed from Fleming Road, being a well used, but relatively narrow road, without a central/dividing white line, and absent of adjoining made footways.
- 1.5 Opposite the site, across Fleming Road, is Rose Cottage, a Grade II listed thatched cottage.
- 1.6 The proposal seeks to change the use of the property to a permanent dwellinghouse.
- 1.7 There are no proposed changes to the building fabric itself, inside or out. However, a number of changes within the curtilage are sought.
- 1.8 The proposal includes altering the vehicular access to the site. It currently shares parking and turning facilities with Greengage Cottage, through a single access. It is proposed to upgrade an existing farm/field gated access to provide access into the application site and two parking spaces for Piglet Place. The shingle drive also provides access to the paddock land to the east.
- 1.9 The new access would have sight lines of 85m to the west and over 80m to the east.
- 1.10 As originally submitted, the proposal showed the red line to include the property, its front and rear gardens, the large store, open shelter and workshop, the existing field entrance, and a distance of 15.8m in width from the store to the proposed east side (paddock) boundary to be garden land. The proposed plot size, as originally submitted, is 0.122 hectares (0.31 acres). However, following concerns from your officer that the use of the area of land to the side as curtilage to the proposed dwellinghouse (including the new access) would be detrimental to the countryside by virtue of increased domestication of the site and an increase in hard standing as a result of the drive and potential domestic paraphernalia on the side garden, amended plans were submitted on 20 June 2017, showing the site area reduced to 0.07 hectares leaving a small curtilage for the proposed dwellinghouse. The revised site area retains the new access and extension of drive, but excludes the area of garden land to the side.

Instead, the red line runs along the open sided shelter, workshop, and hedge currently flanking the rear garden.

Supporting Information

- 1.11 In support of the application, the applicants have stated that the business requires a lot of input from them, and that, now that they are both 'well into retirement age' and suffering with poor health, they are no longer capable of the work that it demands. The applicant has been receiving medical treatment, and is certain that she is unable to organise the letting and running of the holiday cottage. The cottage, she says, will therefore remain empty. Having lived in Greengage Cottage for thirty years, the applicants would like to continue to live there without the holiday let in the future, but state that they need an income from the premises to stay in their own home. They state that they will not be moving from Greengage Cottage, as the applicant is not able to cope with the drastic change. And they will not entertain the option of selling off the cottage on its own. They wish to let it on a more permanent basis to get an income to supplement their pensions – or allow a family member to move in.
- 1.12 They also state that the holiday let has not been viable. Simple income/expenditure accounts for the last several years (from April 2009) have been provided showing a net income, after expenditure of sequentially £1,430, £835, £1,055, £1,137, £323, £341, £488 and £624. These figures do not show the income details, only rent received as an annual sum. However, the applicant advises that, as most guests require the July to September period, only six to eight weeks per annum have been booked over recent years. The applicant also advises that, for tax purposes, the business has not had enough letting days to comply with the tax laws for holiday lettings, in spite of extensive annual advertising, comprising two web sites, magazine advertising and a continuous four star tourist board rating.
- 1.13 Piglet Place has been let since 1998 with a 4 star rating and advertising from the Quality in Tourism no. 64527 – the last inspection being October 2015. From the outset pigletplace.co.uk has been the web address, with another site pigletplacekent.co.uk added in 2010 in an attempt to bolster bookings. These are now both withdrawn – the latter in September 2015 when the applicant felt unable to carry on with the letting. Magazine advertising has been through The Lady and This England.
- 1.14 Documentary evidence has been provided in the form of the front, title page of a Visit Report from the Quality of Tourism; an invoice from Fasthosts Internet Ltd, both dated 2015; and a copy of a tri-fold leaflet advertising Piglet Place, with booking form attached.
- 1.15 The agent, in his letter received 20 June 2017, asserts that the only way such a holiday let can, in theory, be workable is where it is adjacent to the owner's residence so that they can easily attend to the demands of the occupants. He goes on to say that such a unit is not readily saleable on the open market to a buyer located away from the site. He suggests that the action of putting it on the market to see if it

achieves a sale would be purely an artificial exercise which would not lead to a positive result.

- 1.16 The agent states that stricter policies applicable in 1990 when the conversion to a holiday let was carried out no longer apply and that the Council has approved building conversions and new dwellings outside confines locally in the last few years, on the grounds that there is insufficient 5 year housing land supply and that further such approvals have arisen from successful appeals against DDC refusals.

2. **Main Issues**

- 2.1 The main issues are:
- Principle of/Justification for removing the condition
 - Impact on the character/appearance of the countryside
 - Highways Issues
 - The amenity of neighbours
 - Setting of the listed building
 - Sustainability Overview

3. **Assessment**

Principle of/Justification for removing the condition

- 3.1 Planning permission was granted under DOV/89/01727 for the conversion, of what was then a barn, to a holiday let. The permission was given against a backdrop of a policy of restraint with regard to residential development beyond a rural settlement, but in acknowledgement that the holiday let restriction would be in accordance with government policy to encourage small business, including tourist accommodation. Since that time, national planning policy has generally remained unchanged with regard to the location of housing in the rural area, with the focus for development being at existing communities, this also being reflected locally through the application of a settlement hierarchy under Policy CP1 of the Core Strategy. In the case of the current application site/proposal:
- Barnsole is considered to be a hamlet (where settlement confines do not apply) and in accordance with Core Strategy policy CP1 is not considered suitable for further residential development.
 - The nearest settlement confines are at Staple, some 700m to the west. Policy DM1 does not permit development on land outside settlement confines unless it is justified by other development plan policies or it functionally requires such a location. A functional justification would include a proven accommodation need for an agricultural worker.
 - Where a proposal would be contrary to Policy DM1, as in this case, the Core strategy indicates (para 1.7) that it would require “unusual and compelling justification for permission to be given”.
 - Policy DM4 only permits the conversion of rural buildings to private residential uses where the building is adjacent to the confines, which would not apply to the current application site.

- DM11 resists development that would generate travel beyond settlement confines unless justified by other development plan policies, none of which can be identified in this case.
- 3.2 The proposal would therefore lead to an unrestricted residential use in a location where the Development Plan precludes such development and would be contrary to the Development Plan. Members will be aware that the Council is able to demonstrate a 5 year housing land supply and that, in the context of paragraph 49 of the NPPF, full weight can be given to the Core Strategy housing policies. The NPPF affirms (Paragraph 12 & 196) that the planning system should be planned, with the development plan being the starting point for decision making.
- 3.3 As explained above, the Core Strategy states that a grant of permission in such circumstances would require “unusual and compelling justification”. It falls therefore to determine whether there are any material planning considerations of this nature sufficient to set aside Development Plan policy. The assessment below reviews relevant material considerations.
- 3.4 It is important to point out that, for the fair and efficient operation of the Development Management service, the evaluation of material considerations should be undertaken in a manner that can be consistently applied to other proposals of a similar nature. Setting aside the circumstances of this application, the following matters provide a relevant backdrop for assessing proposals to remove holiday let restrictions, in locations where (as is the case here) housing would not normally be acceptable:
- There has been a longstanding practice (subject to site specific circumstances) of favourably considering conversions to provide residential accommodation with a holiday use restriction. The justification for this stems from Policy DM4 (and prior to that LE20 of the 2002 Dover District Local Plan), which allows for the conversion of rural buildings outside settlement confines for commercial uses, which in essence a holiday let use is. The local planning authority generally takes a positive approach to holiday let conversions in recognition of the wider economic benefits for rural tourism and the local economy.
 - The credibility of this permissive route under DM4 (and for the retention of the stock of holiday lets granted over previous years) relies on a robust and consistent approach being taken to any application to subsequently have a holiday let condition removed thereby enabling a property to be used as an unrestricted dwelling. Otherwise there’s a strong risk that applications for holiday lets could be perceived as, or might become, inadvertently or otherwise, a ‘back door’ means of securing open market housing in locations, which would be contrary to the strategy of the development plan. Such an outcome would also undermine confidence in the operation of the planning process.
- 3.5 The NPPF is clearly a material consideration to which considerable weight should be given. Paragraph 14 states that a presumption in

favour of sustainable development is at the heart of the Framework and that the assessment of sustainability has regard to three dimensions: economic, environmental and social, which should be sought jointly and simultaneously through the planning system. These are considered in more detail within a 'sustainability overview' of the proposal at the conclusion of this report.

3.6 NPPF paragraph 55 affirms the need to locate housing in rural areas where it will enhance or maintain the vitality of rural communities. This approach doesn't conflict with Policy CP1 of the Core strategy (settlement hierarchy). Likewise, the NPPF takes a strict approach to new housing within the open countryside. It states, "*local 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*
- *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *the exceptional quality or innovative nature of the design of the dwelling."*

It is not considered that any of these 'exceptions' materially apply to the matters under review through the current application.

3.7 Paragraph 28 of the NPPF outlines the importance of policies to support economic growth in rural areas, including the encouragement of sustainable rural tourism facilities. This also aligns with the application of Policy DM4 of the Core Strategy to the assessment of applications for holiday let uses in the rural areas, as explained further below.

3.8 The current application is supported by evidence and information, as detailed at 1.11 to 1.16 above, which aims to demonstrate why permission should be granted for the removal of the holiday let condition. It should be noted that personal circumstances are capable of being a material consideration, although any such matter would need to be properly understood, and compelling in nature. It is important to state that personal circumstances are seldom held to have weight sufficient to set aside established material planning considerations.

3.9 Evidence from appeal decisions elsewhere suggest, in line with Paragraph 1.7 of the Core Strategy, that special circumstances need to be identified to justify lifting a holiday let condition in a location where housing would otherwise be considered unsuitable. This would reasonably include the consideration and submission of evidence relating to the following:

- (i) Understanding the lack of demand e.g. historic occupancy rates.
- (ii) Whether any claims relating to the use not being viable are linked to management and/or pricing issues i.e. was the holiday let use managed effectively - were there personal circumstances that

prevented it from being so? Was it advertised appropriately/widely and priced in line with market expectations in order to maximise interest?

- (iii) Marketing evidence to demonstrate that there is no market interest in purchasing the property with the holiday let condition attached. Such evidence would need to show that the property had been marketed at a fair market value, reflecting the existence of the condition. It would also need to be marketed for a reasonable period of time and by appropriate means.
- (iv) As (iii) but testing whether a relaxation of the current condition to enable occupancy for more than 6 consecutive weeks would prove more attractive to the market (this is a route highlighted by one Inspector on appeal).

- 3.10 Information relating to the above would need to be fully presented with an application, or following its submission, to enable objective analysis. Depending on its nature, this might require the local planning authority to seek independent expert advice.
- 3.11 Regrettably, with regard to the supporting information provided with the application and the assessment criteria outlined at 3.9, it is considered that the application falls some way short of clearly demonstrating that a holiday let use at the property would be unviable, this being necessary to 'make a case' for the lifting of the condition.
- 3.12 While income/expenditure accounts have been provided for the last few years showing a very limited income, no wider contextual evidence has been provided, such as the levels of the previous income for years before this, or details of historic occupancy rates.
- 3.13 The reasons for the very limited income are also currently unclear. The applicant has explained verbally for instance, that although he had paid for what he thought was extensive holiday let advertising, when he tried to find his own property using the staff who should have been promoting it, he found the staff hadn't heard of Piglet Place, and had no literature on it. This, together with a lack of any supporting material accompanying the application (e.g. copies/evidence of the adverts etc), makes it difficult to draw sound conclusions around the effectiveness of advertising and leaves open the possibility that this might have contributed to the level of demand for the holiday let.
- 3.14 Extracts/details of advertising should also confirm the pricing policy of the holiday let (for different months of the year). Unfortunately, no information has been made available, thereby preventing an evaluation as to whether pricing aligned with market norms and/or expectations.
- 3.15 No marketing evidence has been submitted with the application to assess whether market interest exists in purchasing the property with the holiday let condition attached. This is the only reasonable means of demonstrating whether or not, notwithstanding any management/operational considerations, there's market recognition or otherwise that the property has potential to operate as a viable holiday let. To date, the applicant has resisted marketing the property for sale, citing this as an artificial exercise that would not lead to positive

results. In planning terms however, the absence of this evidence is considered to be a fundamental shortcoming in the submission.

- 3.16 Without appropriate evidence, the bulk of the planning case appears to turn on whether the personal circumstances of the applicant justify lifting the holiday let restriction. These are referred to at 1.11 and include a letter from the applicant which is appended to this report. On a personal level, there is a great deal of sympathy with the health issues mentioned. Beyond this however the Committee must be satisfied about the robustness of the case and whether it is compelling in nature sufficient to set aside policy.
- 3.17 It's stated (in the letter accompanying the application) that the lifting of the restriction, for use as a dwelling, would enable the applicant to carry on living at Greengage Cottage, where they have been in residence for 30 years and, for understandable reasons, wish to remain. It's understood that a rental income from Piglet Place would supplement their pension income. The imperative of an additional income, as set out in the letter appended to this report, however appears to be less clear cut, where it states that it 'may need' to be let out to get an income to supplement the pension income or it might be used for a family member to move into. Critically and notwithstanding, no evidence of the financial circumstances pertaining to the 'need' for the additional income has been provided, which might reasonably be required if judged central to any justification.
- 3.18 In addition, the option of selling Piglet Place (with the holiday let restriction in place) has been dismissed by the applicant, although no specific reasons are given. Evidence from applications considered by DDC for similar proposals elsewhere suggest that a sales price, with the holiday let restriction, would attract in the region of a 30% reduction in value over normal market housing. It's unknown whether the property could attract a buyer on the open market as no marketing work has been carried out. In any event, even with a 30% reduction this would probably realise a not inconsiderable financial sum to help meet the stated need relating to ongoing residence at Greengage Cottage.
- 3.19 As things stand, the Committee would need to be satisfied that without the grant of permission, the applicant would be likely to suffer deleteriously to the point of personal hardship. On the balance of the information available, including other possible options open to the applicant, it is not felt that the evidence currently points to this, and/or that a compelling personal circumstances case presently exists sufficient to set aside established planning policy.
- 3.20 Reference has been made by the applicant to a stricter policy approach applying at the time of the original permission (in 1989) and that, in the absence of a 5 year housing supply, the Council has granted permission for housing in rural areas. The Council does now have a 5 year housing land supply and as mentioned, full weight can be given to development plan policies. As stated, these policies preclude residential conversions in locations beyond village confines.

Impact on the Countryside

- 3.21 The proposal involves an increase in the hard surfaced area to the front of the property, loss of some trees along the front boundary to allow for the sight lines at the altered access. However, the trees are shown to be retained, and your officer considers that the sight lines can be achieved underneath the tree canopies, with minimal pollarding. It is considered that the impact on the rural scene is unlikely to be sufficient to harm the character of the countryside at this point, taking into account also the proximity of other properties, all with their own accesses and drives. The provision of off-road parking here is not an alien feature. Furthermore, the use of shingle (except for the first 5 metres, which would be bonded material), and the retention of some of the trees at the front of the site, means that the property would maintain a soft frontage within the street scene.
- 3.22 As amended, the curtilage of the site excludes the land to the side of the large store, and the rear garden allocated to the dwelling is limited to the area behind the building. This area is screened from the wider landscape by the building itself, and by trees surrounding the site. As such, it is not likely that any domestic outbuildings or other garden paraphernalia, which could potentially be erected through use of the site as a dwelling, would be visible from the wider landscape. As far, then, as DM15 and DM16 are concerned, the proposal would be considered acceptable.

Highways

- 3.23 Parking provision is adequately provided by two independently accessible spaces for both properties, in accordance with policy DM13.
- 3.24 The objection from the occupier of Rose Cottage is noted. They are concerned that the increased use of the new vehicular access to the property would jeopardise their own safety as well as other residents. However, it is considered that with normal, careful driving in and out of the access it is unlikely that a risk to the safe operation of the highway at this point would arise.

Impact on the Amenity of Neighbours

- 3.25 The nearest neighbours would be the occupiers of Greengage Cottage (the applicants). There is no unacceptable interlooking between the two properties, which are separated by a distance of 10m.

Setting of the Listed Building

- 3.26 Rose Cottage is a Grade II listed building and lies across the road from Piglet Place. The listed building, which is under a striking thatched roof, has a very low boundary wall and a cottage style garden. The loss or pruning of the trees on the frontage of the application property to secure the additional access would change the immediate character opposite the listed building, although in view of the character of the lane more generally at this point and neighbouring

the listed building, it is considered that the setting of the listed building would not be harmed and intrinsically, would be preserved.

Sustainability Overview

- 3.27 Achieving sustainable development lies at the heart of the planning system. The NPPF (Paragraph 8) states that to deliver this, economic, social and environmental gains should be sought jointly and simultaneously.
- 3.28 The provision of tourist accommodation brings an economic benefit to the district. Paragraph 28 of the NPPF identifies tourist and visitor facilities as being a valuable arm of rural economic sustainability, with potential to input into the rural economy and provide wider benefits of tourism within the district. Whilst it is noted that the holiday let property subject of this application, has not been let widely in recent years, there is currently insufficient evidence (submitted with the application) to suggest that the cottage is unsuitable for the use, or that it would be unviable in the long term with successful marketing at an appropriate rental value. There is no reason to believe that the nature of the location, between Canterbury and Dover would not be attractive to tourists. In the circumstances it has not been demonstrated that the loss of the holiday let would constitute anything less than an economic disbenefit.
- 3.29 The NPPF recognises the social benefit of providing a supply of housing. In this case, the provision of one new open market dwelling would only marginally contribute to this, against a backdrop of the Council being able to demonstrate an adequate (5 year) supply of housing.
- 3.30 Compared to a holiday let use, which would introduce seasonal traffic movements, it's very likely that the all year round nature of an unrestricted residential use would result in a greater degree of trip generation. The applicant makes reference to the availability of bus stops to Canterbury and Deal being some 7 minute walk away, however it is considered that at about 1km (actual walking distance) the walking time might be about twice this; it's worth mentioning that Kent Design states, as a general rule, it's desirable for dwellings to be within 400m of a bus stop. In this case, it should also important to note that with no footway or lighting for most of its length into Staple, Fleming Road does not readily lend itself to safe/convenient use by pedestrians. Even compared to a more regularly used holiday let, the use of the property without an occupancy/holiday let restriction would be likely to increase the use of the car in a location where access to alternative means of travel is marginal at best. In this respect, the proposal would be likely to encourage higher trip rates by car and work against environmental objectives relating to reducing pollution and moving towards a low carbon economy.
- 3.31 From the above analysis, it must be concluded that the proposal would materially conflict with the objectives of sustainable development.

4. Conclusion

- 4.1 The proposal would result in the establishment of a dwelling house in a location that would be clearly contrary to Development Plan policy and would constitute an unsustainable form of development, contrary also to the objectives of the NPPF.
- 4.2 Insufficient evidence has been submitted with the application to suggest that the harm arising from the conflict with the Development Plan and NPPF should be set aside. In particular it has not been demonstrated, in a manner commensurate with the assessments of other applications of this type, that the use of the property as a holiday let is no longer viable.
- 4.3 Whilst there is sympathy with the applicants' personal circumstances, it is not considered that this has been demonstrated to provide a compelling basis for setting aside policy, and allowing the use of the premises as an unrestricted private dwelling.

g) **Recommendation**

I PERMISSION BE refused on the grounds:-

- 1) Insufficient evidence has been provided with the application to demonstrate that the use of the property as a holiday let is no longer viable. The proposal would result in the loss of tourist accommodation and the provision of an unrestricted dwelling, beyond settlement confines, leading to an increase in travel by private car, and would be unsustainable development, contrary to Core Strategy policies CP1, DM1, DM4, DM11 and the NPPF, in particular paragraphs 8,14 and 17, and chapter 3.

Case Officer
Maxine Hall