

a) **DOV/18/01113**

Land SW of Fieldings, Stoneheap Road, East Studdal, CT15 5BU

Erection of a detached dwelling, formation of vehicle access, creation of parking and associated landscaping (existing garage to be demolished).

Reason for report: Number of contrary representations

b) **Summary of Recommendation**

Planning Permission be refused

c) **Planning Policy and Guidance**

National Planning Policy Framework (NPPF) 2012.

- Paragraph 8 sets out 3 dimensions to sustainable development – the economic, social and environmental role which should not be undertaken in isolation.
- Paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision – making this means approving plan without delay or
 - Where there are no relevant plan policies, or the policies which are most important for determining the application are out-of-date granting permission unless;
 - The application of policies in this framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed or
 - 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.
- Paragraph 47 sets out 'planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise;

- Paragraph 105. 'If setting local parking standards for residential and non – residential development, policies should take into account;
 - a) The accessibility of the development;
 - b) The type, mix and use of development;
 - c) The availability of and opportunities for public transport;
 - d) Local car ownership; and
 - e) The need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

- Paragraph 109 states 'Development should only be prevented or refused on highways grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Paragraph 124 sets out 'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this.
- Paragraph 127 states 'Planning policies and decisions should ensure that developments:
 - a) Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) Are sympathetic to local character and history, including the surrounding built environment and landscape setting, whilst not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) Establish or maintain a strong sense of place, using the arrangements of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder and the fear of crime, do not undermine the quality or community cohesion and resilience'
- Paragraph 130 sets out 'Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions, taking account any local design standards or styles in plans or supplementary planning documents'.
- Paragraph 131 states 'in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit within the overall form and layout of their surrounding'.
- Paragraph 170 sets out amongst other things 'Planning policies and decisions should contribute to and enhance the natural and local environment by
 - Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
 - Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- Paragraph 175 sets out amongst other things 'When determining planning applications, local planning authorities should apply the following principles;
 - 1) If significant harm to biodiversity resulting from a development cannot be avoided (through relocating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;'

Dover District Core Strategy (CS)

Policy CP1 states the location and scale of development in the District must

comply with the settlement Hierarchy. The Hierarchy should also be used by infrastructure providers to inform decisions about the provision of their services.

Policy DM1 states that development will not be permitted outside the confines unless specifically justified by other plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.

Policy DM11 states that development that would generate high levels of transport will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies.

Policy DM15 states that any development which would result in the loss of, or adversely affect the character and appearance of the countryside will only be permitted if it is:

- I) in accordance with allocations made in Development Plan Documents
- II) or justified by the needs of agriculture,
- III) or justified by a need to sustain the rural economy
- IV) or a rural community, it cannot be accommodated elsewhere and it does not result in the loss of ecological habitats. Provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character.

Land Allocations Local Plan

Policy LA35 – sets out the land allocations designated for residential development at East Studdal.

Other Guidance/ relevant matters

- Kent Design Guide

d) Relevant Planning History

DOV/15/00796 – Outline application for the erection of a detached dwelling (all matters reserved) – refused 16th October 2015.

DOV/16/00057 – Erection of a single dwelling ('Meisterstuck Haus' eco home) and garage with landscaping and ecological enhancements – Refused. Appealed and dismissed.

PE/18/00109 – pre application advice was given and to summarise it set out - The issue still remains the access onto the road - whilst I can see that you have designed this in a way to reduce its impact in comparison to the original proposal, we are still of the view that any access goes to the heart of the Inspector's decision. I don't think we will be supporting the proposal.

e) **Consultee Responses and Third Party Responses -**

Dover District Environmental Health Officer

Having considered the supporting documentation for this application I have no objection to it. Should planning permission be granted, however, I recommend that the following conditions are applied:

In the event that, at any time while the development is being carried out, contamination is found that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared. The results shall be submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

During construction no noisy activity shall take place outside of the following hours:

Monday to Friday 0800 to 1800 hours

Saturday 0800 to 1300 hours

With no noisy activity taking place on Sundays or Bank Holidays.

Dover District Councils Principle Ecologist: 6th November 2018.

Slow worms – The report assumes that the on-site population is part of a larger population associated with gardens. The proposal appears to be to translocate onto neighbouring land off-site. If so, the effect will be to concentrate the population in a smaller land area and some habitat enhancement should be provided. Is the land within the control of the applicant? If not, then a S106 agreement would be required to ensure the enhancement and continued management of the receptor land in a manner suitable for slow worms.

Dover District Councils Natural Environment Manager 7th December 2018.

The following would make the development questionable

Issues with the survey

- The refugia were not put out until October, which, although the report notes it was a mild October, is too late in the season to accurately assess the relative population size – it may be wise to assume that the peak adult count of 4 is an underestimate and one should assume that the actual size of the slow-worm population is good rather than low;
- Furthermore, only one week was left between the deployment of the refugia and starting the surveys – this is on the short side

Issues with the proposals

- Given that it is likely that the relative population size is an underestimate, the proposed receptor site (roughly calculated as 45 sq metres) is too small.
- It appears that the receptor site would be part of the garden of the new property –how would the occupiers of the dwelling manage the area for reptiles?
- Is the receptor site currently in a state to receive animals or does it need to develop?
- Is there any other enhancement for reptiles other than leaving the grass long?

Kent Highway Services

Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.

Sutton Parish Council – support the application.

Third Party Responses

Two letters of objection have been received which may be summarised as follows:

- Having read the appeal decision in relation to the previous application made for planning permission on this site, it appears that very little has changed in relation to paragraph 15 of the refusal and it would appear the application has not addressed the issues of reptiles mentioned in the ecological report. These issues were flagged up at an early stage in broad terms by the council when considering previous applications which essentially the applicant has failed to address;
- The views of the immediate neighbours who are against these plans must be respected and their views taken into consideration when making a decision;
- The present proposal is not dissimilar from the previous one, so why have the Parish Council reversed their decision;
- Frogs and newts are still on the land, why has this been overlooked or ignored;
- The location is at a pinch point within Stoneheap Road, opposite entrances to Pine Bank and Highfield Stables. At the peak of the day when traffic is at its highest vehicles accessing and egressing the highway are at risk. There has already been road traffic accident within the lane nearby. The Parish Council have done traffic surveys in other parts of the village and put up DIY please slow down signs which blew down, not to my knowledge in Stoneheap Road;
- There seems to be support from members of the village who do not live near Stoneheap Road. They don't have to put up from members of the village who live nowhere Stoneheap Road, they don't have to put up with the rat run;

- Although they supply neighbours they do not own the infrastructure pipework;
- The applicant will have to find an alternative water supply pipe as its over stretched to say the least;

Fourteen letters of representations have been received and are summarised below:

- This is an imaginative plan with thought having been given to address the objections to and refusal of prior plans.
- East studdal is a community which needs investment and any proposals which thoughtfully integrate a new dwelling into the landscape in such a way that the visual amenity is enhanced;
- The Council would need to ensure that ground works completed exactly as to the plan since the positive visual amenity;
- The positive visual amenity of this project is critically dependent on the ground levels being correct;
- The biodiverse roof and external landscaping are critical elements of the plan to deliver a positive outcome;
- The eco friendly design will blend into the surroundings and be unobtrusive;
- The access to the property is more than adequate for vehicles and although the road is narrow the line of sight for anyone coming out of the area is clear
- The owner has cleared the land over recent years and his proposal will ensure the land does not become a dumping ground for rubbish.
- The applicant has put a lot of thought into the application;
- It will enhance the visual amenity of the area;
- It appears the applicant has addressed the issues which resulted in refusal of the previous application;
- Sustainable, eco builds should be supported;
- It is an innovative environmentally friendly proposal;
- It will sit beautifully with the surrounding landscape;
- The design, with its biodiverse green roof is modern and innovative;
- The dwelling is not large or obtrusive and the importance of the ecology has been carefully considered;
- The property should fit easily alongside the rich diversity of the area;
- The small areas of infill are a better way of increasing housing stock rather large more intrusive developments;

- The design is in keeping with the local surroundings and would not be intrusive of that area;
- The proposed planting of trees and shrubs would enhance and be in keeping of the local fauna and encourage wildlife
- Vehicle access to the proposed building and parking area would not be a problem to other traffic/pedestrians;
- This is a building that will be ecologically sound;
- Building should be encouraged and held up as an example;

(f). 1.The Site and the Proposal

1.1 The site comprises a field covering 0.14 hectares on the south east side of Stoneheap Road, outside the confines of East Studdal. The site is bounded by hedges/trees. Within the site, there is evidence of a number of trees which have been cut down as well as the substantial and strong established roadside hedgerow which once formed part of a more expansive hedge line along Stoneheap Road (which had been subject of discussion in the previously refused scheme). The site rises to the south east from the road.

1.2 The area including the application site is rural/agricultural in character and appearance. There is sporadic development on the north west side of Stoneheap Road and a detached bungalow and some outbuildings to the north east of the site. Stoneheap Road is a rural lane.

1.3 The proposal is for a single storey detached dwelling, formation of vehicle access, creation of parking and associated landscaping (the existing garage is to be demolished).

1.4 The dwelling would be set back from Stoneheap Road by approximately 18 metres. The creation of the dwelling would include a substantial amount of engineering works to ensure the dwelling would be set into the existing topography of the land with a green roof. The dimension of the dwellinghouse would be an L shaped dwelling measuring approximately 16 metres (width) x 8 metres (length) and the height of the eaves would be 3 metres with a ridge of 5 metres. The dwelling would be constructed in timber cladding and brickwork with projecting courses and aluminium framed windows, under a green roof.

1.5 The plans show a proposed landscaping scheme which includes a number of different types of species.

1.6 By way of background, planning permission was refused for a single dwelling on the site (DOV/16/00057). The decision was appealed but the appeal was dismissed. This current application has been submitted as a follow up scheme.

2. Main Issues

2.1 The main issues in the consideration of this application are:

- The principle of new dwelling in this location.
- Design/appearance
- Potential impact in the rural environment and street scene.
- The impact upon residential amenity.
- Transport/travel.
- Ecology
- Sustainability overview.

Assessment

Principle of Development

3.1 The starting point for the determination of any planning application is the development plan. Policy CP1 of the core strategy identifies the location and scale of development for settlements in terms of hierarchy. East Studdal, the closest settlement to the site is defined as a village which is suitable for an appropriate scale of development that would reinforce its role as a provider of services to essentially its home community. Land is allocated within the village for 30 dwellings. However, the site falls outside of the settlement confines of East Studdal .

3.2. The planning inspectorate slightly adjusted the defined settlement in the DLALP which runs tightly behind the frontage development along Downs Road some distance to the South. Consequently the site lies in the countryside for policy purposes and policies DM1 and DM15 apply which restrict new housing to that which functionally requires a rural location.

3.3 Policy DM1 of the core strategy identifies that development on land outside rural settlement confines will not be permitted unless specifically justified by, amongst other things, other development plan policies or it functionally require such a location. The proposed dwelling would be located outside the confines. The proposal does not meet any of the circumstances where development outside of the settlement confines would exceptionally accord with Policy DM1 and, therefore, the development is contrary to this policy.

3.4 Policy DM15 also seeks to resist development which would result in the loss of, or adversely affect the character or appearance of the countryside, except in certain circumstances. This policy reflects the NPPF's aim of, inter alia, having regard for the intrinsic character of the countryside and focusing development in sustainable locations. The development would result in the loss of countryside and would not meet any of the first three criteria of Policy DM15, whilst the development (one dwelling) could be accommodated elsewhere. Furthermore, as will be set out later in this report, the development would adversely affect the character and appearance of the countryside and would result in the loss of ecological habitats. The development would therefore be contrary to Policy DM15.

3.5. Dover District Council cannot currently demonstrate a five year supply of deliverable housing land. In addition, by undertaking the process of updating its housing need evidence base (Strategic Housing Market Assessment (SHMA) 2017), the council has acknowledged that its policies relating to the supply of housing within the Core Strategy are out of date. Under the terms of the NPPF, each of these considerations would typically mean that the presumption in favour of sustainable development is engaged.

3.6 The presumption in favour of sustainable development, under paragraph 11 of the NPPF, states 'that where policies which are most important for determining the application are out of date, permission should be granted unless particular policies of the framework (for example relating to irreplaceable habitats) provides a clear reason or where the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the National Planning Policy Framework, read as a whole.

3.7. The ruling of the Court of Justice of the European Union (CJEU) in the case of the People over Wind and Sweetman concluded that ecological mitigation measures could not be factored in at the habitat screening stage. This was the approach that the LPA had been using in relation to the assessment of whether residential developments would have a likely significant effect on the European sites at the Thanet Coast and Sandwich Bay. The correct approach has been determined to be that if a likely significant effect cannot be ruled out then an appropriate assessment must be undertaken, which will consider the effect of the development, or otherwise, on the European sites.

3.8. The consequence of this approach is that in reference to paragraph 177 of the 2018 NPPF, due to the need for an appropriate assessment to be undertaken, the presumption in favour of sustainable development does not apply. Consequently, when assessing the NPPF, a 'flat balance' applies.

3.9. In light of the above, it remains the position of the LPA that regardless of the position on the housing land supply calculation, and paragraph 177, DM1 and DM15 do have some reduced weight following the update of the SHMA and this is acknowledged when determining applications in particular those outside of the adopted settlement boundaries. Each proposal must be assessed against the policies of the development plan as the starting point, factoring in any material considerations.

3.10. In addition to the assessment of the application against the NPPF taken as a whole, footnote 6 under (d)(i) also notes: The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.

3.10. Subject to the consideration of these elements below, the starting point remains that his proposal is considered to be unacceptable in principle.

The impact on the Character and Appearance of the area

3.11 A previous planning application was refused and dismissed at appeal by virtue of its location, design, scale and accompanying works, resulting in an unjustified, sporadic form of development, which would have been visually intrusive detrimental and harmful to the character and appearance of the street scene. The previously refused dwelling has been designed to be set back within the plot and was low profile in being a single storey when seen from the road. At the time of the appeal the inspector concluded the development would noticeably erode the verdant character of the approach to the village and consolidate the existing built development along both sides of the road, with no buildings immediately to the south east or south west and the proposal could not be considered as infilling in an existing built up area.

3.12 The National Planning Policy Framework sets out that ‘in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help the standard of design more generally in an area, so long as they fit with the overall form and layout of their surroundings.

3.13 The proposed development is a single storey L shaped dwelling measuring 8 metres in depth x 16.5 metres in length, with an eaves height of 2.5 metres and a maximum height of 5 metres. The proposed materials would consist of brickwork with projecting courses, wood cladding, aluminium windows and doors with a ‘green roof’ over to allow plants and grasses to grow.

3.14 The topography of the land rises to the south east from the road. The applicant is proposing to cut into the existing land levels of the site to set the dwelling within an engineered hollow to reduce the prominence of the dwellinghouse within the street scene. It is accepted the dwelling would not be highly prominent from within the street scene.

3.15 However, that said, whilst the proposed dwelling would be set down within the ground level of the site, the green roof would be visible by approximately 2.5 metres from Stoneheap Road, due to the topography of the land. Given proposed engineering works, the land levels would be significantly altered and the roof would be visible and be seen as an artificial mound within the street scene and would result in a change to the intrinsic character of the natural environment within this location.

Street Scene/rural environment

3.16 The development, including the associated engineering works related with the construction of the access and driveway, would also be readily evident in and from the street. These works are considered to be unsympathetic and intrusive.

3.17 One of the core planning principles of the NPPF is to protect the intrinsic and character and beauty of the countryside. Policy DM15 states that any development which would result in the loss of, or adversely affect the character and appearance of the countryside will only be permitted if it is:

- I) in accordance with allocations made in Development Plan Documents.
- II) or justified by the needs of agriculture,
- III) or justified by a need to sustain the rural economy
- IV) or a rural community, it cannot be accommodated elsewhere and it does not result in the loss of ecological habitats. Provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character.

3.18 To provide an access onto the site significant engineering works would be required which would alter the existing natural landscape. These works would involve cutting into the existing ground level to provide a driveway consisting of tarmac immediately off the highway which would amalgamate into porous bound resin and continue into a substantial parking courtyard with stone setts laid. The access and courtyard would be readily visible from the street scene given the land level at the edge of the highway. To achieve this, the applicant is proposing to re-profile the land levels with an incline towards the rear of the site, with the spoil being used to create a bank around the

sides of the site. A large bank would be visible towards the rear of the site, which would be exacerbated by the rise in the land which is already significantly higher to the rear. These land banks would not sit comfortably within the prevailing landscape and it is considered would appear as a contrived feature within the street scene and within the wider landscape contrary to the aims and objectives of policy DM15 and the National Planning Policy Framework.

3.19 Paragraph 127 (d) of the National Planning Policy Framework sets out that planning decisions should ensure that developments establish or maintain a strong sense of place and development should be visually attractive as a result of good architecture, layout and effective landscaping and be sympathetic to local character and history, including the surrounding built and landscape setting.

3.20 The applicant is proposing a landscaping scheme either side of the driveway and a section of hawthorn hedge along the road to try and mitigate against the potential impact the proposed dwelling would have within this rural location and street scene. The proposed planting would be uncharacteristic within Stoneheap Road and within the surrounding area. This would be further exacerbated by the requirement to ensure visibility splays can be achieved and maintained resulting in the need to set the landscaping back within the application site. At the time of the previously refused scheme the applicant had proposed to plant a hedgerow behind visibility splays. The inspectorate concluded on this matter that the overall built up residential nature of the site would be clearly apparent to passers-by in sharp contrast to the existing undeveloped paddock. For these reasons it is considered the proposal does not overcome the previous reasons for refusal or the dismissed appeal.

3.21 The type of planting has been chosen to try to fully screen or disguise the proposed development behind the landscape which would undoubtedly result in a high magnitude of change to the site. It is therefore considered the proposal would appear as an artificially engineered feature within the landscape due to the topography, character and appearance within the prevailing landscape contrary to policy DM15 of the Dover District Core

Strategy and the aims and objectives of the National Planning Policy Framework, in particular paragraphs 127 and 170.

Impact upon residential amenity

3.22 Given the position of the dwelling within the site and the positioning of the windows, it is considered the proposed dwelling would not result in any overlooking of the private amenity space currently enjoyed by the occupiers of the adjacent dwellings.

Transport/travel

3.23 The application site would be able to accommodate the required 1.5 parking spaces.. The proposal would therefore comply with the aims and objectives of policy DM13 of the Core Strategy.

3.24 Policy DM11 of the Dover Core Strategy sets out 'development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. The nearest bus stop is over 285m away from the site in Homestead Road to the south west, which provides an infrequent bus service (2 per day Monday to Friday, 1 on Saturday and none on Sunday). In the recent dismissed appeal the inspector concluded 'from its junction with Downs Road, Stoneheap Road is a narrow, single carriage lane with hedges both sides, no footways and only limited street lighting. As a result the road has the character of an unspoilt rural lane with the scattered residential development in the vicinity of the appeal site being detached from the main village'

3.26 Due to the limited level of facilities, lack of footpath and street lighting it is expected that the occupants of the proposed dwelling would have to primarily rely on car journeys for basic day to day needs which is something the NPPF seeks to avoid.

3.27 Overall the proposal is considered to be in an unsustainable location due to its links to facilities and services and the lack of public transport. The proposal would be contrary to DM11 of the Core Strategy and the aims and objectives of the National Planning Policy Framework.

Ecology

3.28 The Natural Environment and Rural Communities Act 2006 requires that every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. Biodiversity is a material consideration in planning and the PPG on the Natural Environment states that “Information on biodiversity impacts and opportunities should inform all stages of development ...” and that “an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.”

3.29 In this case the applicant has submitted an ecological scoping survey. Dover District Councils Principle Ecologist raised concerns as it was considered the report assumed the on-site population is part of a larger population associated with gardens. The proposal initially sought to translocate onto neighbouring land off-site. The effect would have been to concentrate the population in a smaller land area and some habitat enhancement would be needed. If this land is not within the control of the applicant then a section 106 agreement would be required to ensure the enhancement and continued management of the receptor land in a manner suitable for slow worms.

3.30 To try and overcome this, the applicant proposed a receptor site within the south west front corner of the site. Advice has been received from Dover District Councils Natural Environment Manager who has raised issues with the report in that artificial refugia were not put out until October, which, although the report notes it was a mild October, is too late in the season to accurately assess the relative population size. Given this, it was advised that it may be wise to assume that the peak adult count of 4 is an underestimate and one should assume that the actual size of the slow-worm population is good rather than low; Furthermore, only one week was left between the deployment of the artificial refugia and starting the surveys, which is considered too short a period. In respect of the receptor site it is considered given that it is likely that the relative population size is an underestimate that the proposed receptor site (roughly calculated as 45 sq metres) is too small.

As the receptor site would be part of the garden of the new property, and it is unclear how the residents would manage the area for the reptiles. Further concerns are whether the receptor site is currently in a state to receive animals and if there are any other enhancements for reptiles other than leaving the grass long.

3.31 In this case it is considered the ecological survey and the proposed mitigation measures do not go far enough to safeguard the ecology on the site contrary to the requirements of paragraph 99 of ODPM circular 06/2005. Given that other significant concerns have been raised with the proposal that are considered sufficient to justify a recommendation for refusal, the applicant has not been asked to go to the expense of overcoming this concern.

Sustainability overview

3.31 Paragraph 78 of the National Planning Policy Framework sets out 'to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where it will support local services. Where there are groups of smaller settlements, development in one village, may support services in a village nearby.

3.32 The Dover District Settlement Review and Hierarchy describes East Studdal as a "settlement which has lost one shop/post office since the local plan survey and now only has one store". However, a recent visit to the village revealed that there was no shop (it has been converted to a house). The community facilities include two halls, one is a small village hall the other is a Parish Community Centre. There are no other facilities and services. Given the limited facilities the addition of a single dwelling in a location which would be detached from and poorly related to the village, this would neither enhance or maintain the vitality of the rural community and be contrary to the aims and objectives of the National Planning Policy Framework in particular paragraph 78.

3.33 Sustainable development is identified throughout the National Planning Policy Framework. There are three dimensions to sustainable development and consideration of these roles should not be taken in isolation as they are interdependent. They are set out in the NPPF being: economic, social, and environmental.

Economic role: The proposed development is a single residential dwelling. The economic benefit involves temporary employment during construction. However it is considered that bearing in mind the siting of the new dwelling, it would provide only a very limited contribution to the community in economic terms.

Social role: The development would provide an extra dwelling, which would contribute in a very modest way towards meeting the housing needs of the district. However it has to be borne in mind that the development is only for a single dwellinghouse outside the confines, which is not where policy intends new housing development to be located. It should also be borne in mind land is already allocated within the village for housing development. The NPPF identifies that there is a need for accessible services. It is therefore considered this development has a limited value in social terms.

Environmental role: The applicant is proposing to use a 'green roof' which could accommodate some planting and grasses and additional planting to replace the hedge that was removed following the refusal of the original submission. However this has to be considered against the resultant harm to the wider natural environment which includes the re-profiling of the landscape, the erosion of the rural character of the area and the introduction of development into the open countryside away from public transport links. Substantial weight against the development is also attributed to the loss of ecological habitat, for which no appropriate mitigation has been proposed.

3.34. It is acknowledged that there are limited benefits as far as the sustainable objectives of the NPPF are concerned. However these benefits have to be weighed against those matters which give significant cause for concern which are referred to above and further into this report.

.

The Conservation of Habitats and Species Regulations 2017, Regulation 63: Appropriate Assessment

3.35 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.

3.36 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.

3.37 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.

3.38 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.

3.39 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.

3.40. Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the

integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

Conclusion.

3.41 The proposed is for a dwelling outside settlement confines which would be contrary to the development plan.. Although the proposal would result in a dwelling which would contribute towards the Councils 5 year housing deficit on a windfall site, the contribution would be very minimal.

3.42 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. There are some benefits of the development by means of the green roof and additional planting, but taken within the wider context of sustainability, it would cause harm, being a sporadic form of development which would result in material harm to the character and appearance of the street scene and the surrounding rural character and appearance of the area. In addition to this the mitigation measures in respect of the protected species are not considered adequate to preserve the biodiversity.

3.44 The level of harm would result from the proposed in respect of an unjustified dwelling beyond the built confines of the village and harm to the setting and appearance of the countryside and the rural street scene. Accordingly the development is unacceptable and it is recommended that planning permission be refused for the reasons set out in the report.

(G) Recommendation

PERMISSION BE REFUSED for the following reasons

- I. The proposed site lies outside of the defined settlement confines and within the countryside, resulting in the loss of countryside, failing to recognise the intrinsic character and beauty of the countryside and failing to achieve a sustainable pattern of development, contrary to

Core Strategy Policies DM1, DM11 and DM15 and paragraphs 8 and 170 of the National Planning Policy Framework.

- II. The proposed development, by virtue of its location, the creation of a vehicular access, the excavation and land raising and the height and roof form of the dwelling, would create a visually intrusive form of development which would cause substantial harm to the unspoilt rural character and appearance of the area, contrary to Core Strategy Policy DM15 and paragraphs 127 and 170 of the National Planning Policy Framework.
- III. The proposed site provides a habitat for reptiles (slow worms), which are a protected species. The application has failed to demonstrate that an appropriate receptor site would be secured to mitigate for the loss of habitat and, consequently, the development would adversely affect the reptiles as a protected species contrary to paragraph 175a of the National Planning Policy Framework and paragraph 98 of Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System'.

Case Officer - Karen Evans