

a) **DOV/16/00396 – Outline application for the erection of three bungalows with all matters reserved - Land at Short Lane, Alkham**

**Reason for Report** - Number of third party letters in support

b) **Summary of Recommendation**

Planning permission be refused.

c) **Planning Policies and Guidance**

Dover District Core Strategy

Policy DM1 states that development will not be permitted on land outside the urban boundaries and rural settlement confines, unless justified by other development plan policies of ancillary development.

Policy DM11 considers the location of development and managing travel demand. Development that would generate travel outside of rural settlement confines will not be permitted unless justified by development plan policies.

Policy DM13 sets out parking standards and identifies that it should be a design led process.

Policy DM15 states that development which would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it: Is in accordance with allocations made in the Development Plan; justified by the needs of agriculture; justified by a need to sustain the rural economy or a rural community; cannot be accommodated elsewhere; and does not result in the loss of ecological habitats. Where acceptable relative to these criteria, measures should be incorporated to reduce, as far as practicable, any harmful effects on the countryside character.

Policy DM16 states that development that would harm the character of the landscape, as identified through the process of landscape character assessment, will only be permitted if: It is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures or; it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.

Policy DM17 outlines the type of development that would not be permitted in Groundwater Source Protection Zones.

Policy CP1 identifies Alkham as a village, suitable for scale of development that would reinforce its role as a provider of services essentially to its home community.

Policy CP2 identifies the requirement for allocating land for houses and employment.

Policy CP3 identifies the distribution of housing allocations, stating that land to be allocated to meet the housing provisions of CP2 will include land for 1,200 homes in rural areas.

National Planning Policy Framework (NPPF)

The NPPF states that at its heart is a presumption in favour of sustainable development, to be seen as a golden thread running through decision-taking. It sets out three dimensions to achieving sustainable development: economic, social and environmental. These should not

be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

Paragraph 17 (core principles) recognises the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

The role of housing in supporting the broader sustainability of rural settlements is acknowledged

Paragraph 14 of the NPPF requires that where the development plan is absent, silent or relevant policies are out-of-date development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or, specific policies in the NPPF indicate that development should be restricted.

Paragraph 49 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 sites.

Paragraph 50 states that local planning authorities should plan for a mix of homes based on current and future demographic trends, market trends and the needs of different groups in the community, including older people and people with disabilities.

Paragraph 56 states that the “Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 stresses the importance of the achievement of high quality and inclusive design for development including individual buildings, public and private spaces and wider area development schemes.

Paragraph 58 states that planning decisions should ensure that developments will function well and add to the overall quality of the area over the lifetime of the development, respond to local character and history and are visually attractive as a result of good architecture and appropriate landscaping.

Paragraph 60 stresses that local planning authorities should not stifle innovation however stresses the importance of reinforcing local distinctiveness.

Paragraph 61 stresses that planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in AONB's, which have the highest status of protection in relation to landscape and scenic beauty.

Paragraph 118 states that local authorities should aim to conserve and enhance biodiversity by applying a range of principles, including: Refusing planning permission where significant harm cannot be avoided, adequately mitigated, or, as a last resort, be compensated for; and refusing permission where development would result in the loss or deterioration of

irreplaceable habitats, unless the need for, and benefits of the development in that location clearly outweigh the loss.

#### National Planning Policy Guidance (NPPG)

Provides guidance relating to matters covered by the NPPF.

#### Countryside and Rights of Way Act 2000

Section 85 places a general duty on public bodies to the effect that in exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority [district council] shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

#### Other Documents

- The Kent Design Guide sets out design principles of development.
- Kent Downs Area of Outstanding Natural Beauty Management Plan 2014-2019
- East Kent Strategic Housing Market Assessment, 2009- identifies population trends and how housing should respond to these.

#### **d) Relevant Planning History**

Planning history for this site is extensive and is as follows:

- DOV/87/0865-Outline permission for 2 chalet type bungalows. Refused November 1987
- DOV/90/00891 - Outline application for the erection of three houses. Refused October 1990. Appeal dismissed June 1991
- DOV/96/01189 - Outline application for erection of low cost housing. Withdrawn by applicant January 1997
- DOV/98/00371-Erection of detached house and garage. Appeal dismissed April 1999

Land to the northeast of the appeal site:

- DOV/15/0031- Creation of hardstanding for animal feed storage and access. Refused April 2015. Appeal dismissed November 2015.

#### **e) Consultee and Third Party Comments**

Principal Ecologist (DDC): The application is beyond the village confines and within the AONB. The test in Paragraph 115 of the NPPF is whether development conserves the landscape and natural beauty of the AONB. This matter is not adequately addressed in the submitted planning statement. The field and adjacent property reflect the historic grain of the village which would be significantly altered by developing the land. The proposal would have an undue urbanised effect, detrimental to the AONB. The site may support reptiles. No survey has been submitted and refusal is also recommended on biodiversity grounds.

Environment Agency: No objections subject to adequate sewerage infrastructure being in place and conditions relating to contamination, surface water drainage, foul drainage.

Public Rights of Way Officer: Public Right of Way ER177 passes near the site. There is unlikely to be a significant impact upon this restricted byway therefore no concerns are

raised, however request informatives should be placed any permission to safeguard the right of way.

Southern Water: Views awaited.

Alkham Parish Council: Strongly object to the development as proposed. The area suffers from severe flooding during wet weather with unpleasant sewage overflow. The site is outside the village confines and developing this site could set a precedent for further development in the countryside. Also noted that the development would not provide affordable housing for people in the village and that vehicle access to the site is not ideal and would affect users of the adjacent public highway.

#### Public representation

5 letters of objection, 12 letters of support have been received.

The letters of objection outline the following:

- The site is in an AONB and the land to this side of the valley is free from development. Any significant development would affect the integrity of the valley vista.
- Development on this site would affect the ability of the site to deal with surface runoff from the surrounding hills.
- The site is greenfield land.
- The site is adjacent to a bridleway. Any building work or development would have a negative impact on the use of the route and would diminish the rural feel of the area.
- This field has flooded in the past.
- Housing development would set a precedent for further development.
- Any application in this location should be carefully considered and an all matters reserved application does not allow for this.
- The site has been used for many purposes in the past including dumping cars, grazing animals and waste has been buried on site.
- Bus service to the village is infrequent

The letters of support outline the following:

- The site is screened by trees and nestled at the base of the valley and as such would not obscure views. If sympathetically developed the development would enhance the area.
- There is a need for housing.
- Drainage may be a problem near to the site but not on the site. This can be addressed through the application.
- The site is near to local services which include a pub/restaurant, the village and farm shop.
- The site would be easily accessible by foot, bicycle and bus and is a short distance from Dover and Folkestone.
- New properties in the village rarely become available. There is a demand and therefore the properties are welcomed.
- It would allow a younger generation to grow up outside the town.
- The site has been empty for some time and developing it would be positive.
- It is more beneficial to have three properties than to have one larger dwelling.

**f) The Site and Proposal**

- 1.1 The application site is a rectangular parcel of undeveloped land lying to the south of Short Lane, Alkham, and is approximately 0.16 hectares in area. It lies to the south east of the village, adjacent to but beyond the village confines of Alkham, within a valley floor forming part of the Area of Outstanding Natural Beauty (AONB). The site is reached via Short Lane from the B2060 which runs along the northern slope of the valley. A public right of way (ER177) also passes to the northeast of the site, contiguous with the track fronting the site.
- 1.2 The site appears to be an open field surrounded by post and rail fencing and mature vegetation. It is currently served by a gated access from Short Lane. At the time of the officer's visit it is apparent the site has been used for storage including oil barrels and a caravan. To the west of the site are a mix of single and two storey dwellings (detached, semi detached and terraced), these being located within the village confines of Alkham. To the north is an open field, beyond which are 8 units (granted permission in 1993) as an affordable housing/rural exceptions scheme. To the east is the curtilage of Alkham House, the property itself being some 60m from the application site, beyond which is open countryside. Open countryside also adjoins the site to the south.
- 1.3 Outline planning permission is sought for the erection of three bungalows with all matters reserved. The application does not include plans to show an indicative layout or design or details of the proposed access.

**2. Main Issues**

- 2.1 The main issues in the consideration of this application are:
  - The principle of development
  - Impact of the development upon the character and appearance of the countryside, the streetscene and AONB
  - Impact upon living conditions
  - Highways, transport and travel
  - Flooding and Surface Water
  - Contamination
  - Sustainability Overview

The Principle of Development

- 2.2 The site is located outside the village confines and therefore for the purposes of planning policy is considered to be within the countryside. Policy DM1 of the Core Strategy (CS) does not permit development on land outside the settlement boundaries unless it is justified by other development plan policies or it functionally requires such a location.
- 2.3 Set against the above, it is important to note that the council does not have a five year housing land supply. The NPPF states, in these circumstances, that adopted housing supply policies should not be considered up to date. Against this background, paragraph 14 of the NPPF requires that, where the development plan policies are out-of-date, planning permission should be granted unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 2.4 The remainder of this report assesses the merits of the proposal relative to the policy context and other material considerations.

Impact upon the character and appearance of the countryside, AONB and the surrounding area

- 2.5 Policy DM15 outlines that development which would result in the loss of, or adversely affect the character or appearance of the countryside will only be permitted if it is:
- i. in accordance with the allocations made in Development Plan Documents
  - ii. Justified by the needs of agriculture; or
  - iii. justified by a need to sustain the rural economy or a rural community
  - iv. it cannot be accommodated elsewhere; and
  - v. it does not result in the loss of ecological habitats
- 2.6 Furthermore, Core Strategy Policy DM16 stresses that development that would prove harmful to the character of the landscape would only be permitted i) where it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures, or ii) it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.
- 2.7 The site is located within the countryside forming part of the AONB. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural environment by protecting and enhancing valued landscapes. The additional weight afforded to protecting the AONB is outlined in Paragraph 115 which stresses that “great weight” should be given to conserving landscape and scenic beauty in such areas. This reflects the statutory obligations under Section 85 of the Countryside and Rights of Way Act 2000 to the effect that in exercising or performing any functions (which include planning functions) affecting an AONB, an authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area.
- 2.8 Policy SD2 of the Kent Downs AONB Management Plan states, “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.” Furthermore Policy SD3 states that “new development or changes to land use will be opposed where they disregard or run counter to the primary purpose of the Kent Downs AONB.”
- 2.9 The application is outline with all matters reserved and no plans to indicate layout or design of the units have been submitted as part of the application. The submitted planning statement states that the site adjoins the settlement confines of Alkham. It is argued that the site relates strongly to neighbouring residential development and because of its restricted nature, would not prejudice the wider application of policies to protect the countryside and the AONB. It is commented that as it exists now, the site has no reasonable beneficial use and its physical characteristics do not lend themselves to a re-introduction of an agricultural use.
- 2.10 The Committee will note that the site (and adjoining land) has been subject of previous planning applications for development. A summary of these is provided below.
- 2.11 Planning permission was refused and dismissed for an outline application for 3 dwellings on the site (DOV/90/00891). While the appeal was heard prior to the erection of the 8 affordable

housing units some 90m to the north of the site, the comments of the Inspector are considered pertinent to the assessment of this current application:

*“Your client has argued in his grounds of appeal that the appeal site is functionally and visually an integral part of the settlement of Alkham being part of a residential curtilage contiguous with the built-up area and separated from the adjoining countryside by existing mature planting. In your client’s opinion the erection of 3 houses on the appeal site would neither extend the village at the expense of the surrounding rural area nor prove detrimental to the high landscape quality of the Area of Outstanding Natural Beauty. Having inspected the site I cannot agree with your client on these points. Notwithstanding the residential development that has taken place on land adjacent to Hill View, I observed that your client’s house [now known as Alkham House] is located well beyond the present built-up area of Alkham. Development of the appeal site in the manner proposed would in my opinion serve to extend the village limits by a further 96m or so in a linear fashion along the valley bottom. Despite the presence of mature hedgerows around part of the site I consider that the development would be visible over a fairly wide area from the B2060 running down the valley at a higher level and from various footpaths and bridleways in the valley. I am concerned that the development of this site would set a precedent for further expansion of this compact village in an ad hoc manner.....I conclude that the development of the appeal site would be visible from a number of public vantage points and would, by intruding into the countryside designated both as a Special Landscape Area and Area of Outstanding Natural Beauty, cause demonstrable harm to the setting of Alkham Village and to the character and appearance of its rural surroundings.”*

- 2.12 An application for the erection of a detached dwelling on the site (DOV/98/00371) was similarly refused and dismissed on appeal. In this case the Inspector concluded that the use of the site for a dwelling and domestic garden would visibly urbanise the character and appearance, harmful to the countryside setting and erode the natural beauty and character of the AONB. The Inspector also noted that if permission was granted on this site it would be difficult for the Council to resist development of the field between the site and the low cost housing to the north.
- 2.13 More recently an appeal for the creation of an area of hardstanding to store animal feed on land to the north east of the site in question (DOV/15/00031) was refused and dismissed at appeal. The Inspector considered the main issue to be the impact of the proposal upon the character and appearance of the rural landscape. He noted that the surrounding area was characterised by openness, “and with the exception of native hedgerows in the distance, subdivision between fields in the vicinity has little impact on the vista.” He referred to the duty of decision makers to have regard for the designation of the AONB. He stated that the proposed hardstanding would appear urbanised in an otherwise rural landscape. The Inspector also noted that while planting was proposed around the area of hardstanding, the site would be visible from higher ground. This would have a limited screening effect and would prove out of character with the surrounding open landscape. The Inspector considered that the proposal would be contrary to the aims of policies DM1, DM15 and the AONB Management Plan.
- 2.14 While this latter case is of a different nature to the current application and relates to land nearby, it is considered, together with the other appeal decisions, that the approach taken by the Inspectors demonstrates both the sensitive and prominent nature of the site and the weight to be given to safeguarding the AONB landscape in this location and the importance of restricting development here in the interests of conserving the landscape and scenic beauty of the area.

- 2.15 The site is open in character, although it is partly surrounded by high hedges and trees. It is adjacent to the confines, and to Beechwood which is the last property on Short Lane. It is your officers opinion that the erection of three bungalows in this location would introduce a built form on an otherwise undeveloped site set within an open landscape setting. The introduction of the development would, in addition to reducing the degree of openness, result in an overtly urban and intrusive form of development, which would be visible from near views and higher ground, in an area where planning policy clearly places priority on conserving the landscape and scenic beauty of the AONB. It is considered that the urbanising impact arising would demonstrably conflict with the objectives of AONB policy and would harm the quality the character and appearance of the landscape and the setting of Alkham village.
- 2.16 The site is not allocated within the development plan, although regard was had to whether it should be allocated through the 'call for sites' as part of the Land Allocations Local Plan (LALP) process. The site was discounted by DDC for reasons including the impact on the AONB. It was nevertheless advanced by the site owner with the case heard at the LALP Public Inquiry. The Inspector's Report did not recommend that the site should be allocated.
- 2.17 The residential development of this site is considered to introduce an urban form of development which would be harmful to the character and appearance of the countryside forming part of the Kent Downs AONB. No evidence has been submitted to demonstrate that the proposals would satisfy the criteria in Policy DM15 or DM16 relating to when harmful impacts associated with development can be exceptionally justified. Even if such a case could be put forward, it is questionable whether this could set aside the 'great weight' presumption in relation to conserving the AONB landscape; an area that the NPPF confirms has the "highest status of protection" in relation to landscape and scenic beauty.

#### Impact Upon Living Conditions

- 2.18 The nearest residential dwelling to the site is Beechwood, a semi detached dwelling to the west of the site. There is a distance of approximately 4 metres between the boundary of the site and the nearest habitable room of Beechwood. It is considered that the site could be developed in a way that would not adversely affect the living conditions of the occupiers of this property or other nearby dwellings.

#### Highways, Transport and Travel

- 2.19 While the site currently benefits from an access, the application does not include details of the proposed access for the three bungalows. The NPPF, paragraph 32, indicates that development should provide safe and suitable access while paragraph 49 requires development proposals to maximise walking cycling and the use of public transport. Core Strategy Policy DM11 states that development that would generate travel will not be permitted outside the urban boundaries.
- 2.20 Your officers are satisfied, given the scale of the development and the character/nature of the road access to the site, that the development should be capable of being accessed in a safe and appropriate manner.
- 2.21 Alkham appears to be served by a village hall, church, primary school and pubs. To the north of the site is a public byway. There is a bus stop along Alkham Valley Road which has a service running Monday to Saturday between Folkestone and over and the nearest train station is Kearnsey which is approximately 2.43 miles from the site. While the site is located within the countryside for planning purposes, it is not isolated in travel terms, being accessible by foot and road to/from local amenities.

## Ecology

- 2.22 Paragraph 118 of the NPPF states that local planning authorities should aim to conserve and enhance biodiversity and planning permission should be refused for development resulting in the loss of or deterioration of biodiversity. The Council's Principal Ecologist has advised that the current condition of the site means that it may support reptiles as protected species. Circular 6/2005 requires that the presence or otherwise of protected species, and the extent that they are affected by proposed development should be established before planning permission is given. The application does not include a reptile survey and therefore in its current form the application has failed to establish whether protected species are present on site and/or what measures might be necessary to safeguard them. Therefore, in terms of the impact on ecology, the development as proposed cannot be considered to be acceptable.

## Flooding and foul and surface water drainage

- 2.23 The latest advice from the Environment Agency, using the most up to date flood advice, is that the site falls within Flood Zone 1. As such, they have no objections to the proposal in flood risk terms. The site is located within a Groundwater Protection Zone 2 and as such the Environment Agency require (in the event that permission is to be granted) that details of the treatment of foul and surface water be submitted. The EA note that groundwater levels are likely to be relatively shallow at the site particularly during the winter months and that the use of shallow infiltrating SUDs would be appropriate. Details of this could be dealt with by condition if necessary. The EA have also advised that prior to the granting of any permission, it should be confirmed that adequate sewerage infrastructure would be available to serve the development. These matters have not been pursued further with the applicant in view of the wider concerns outlined in this report about the acceptability of development in this location.

## Contaminated Land

- 2.24 It appears that the site has been used to store builders materials. The Environment Agency have advised that a suite of conditions relating to contamination would be required for the proposed development to be considered acceptable. The required conditions include carrying out a preliminary risk assessment, site investigation scheme to inform a verification plan as well as the carrying out of a watching brief by a suitable consultant during foundation works. It is considered that these works could be adequately secured by condition.

## Sustainability Overview

- 2.25 The NPPF highlights that achieving sustainable development should be measured against three distinct elements: economic, social and environmental considerations. It also states that these should not be undertaken in isolation, because they are mutually dependent and that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
- 2.26 In this case, the application would bring about social benefits by providing housing in the absence of a 5-year housing land supply. The applicant states that the proposal would enhance the community in its social role by providing local housing and that this would justify building beyond the confines of the settlement. In terms of economic issues, there would be a very modest benefit associated with the building of the units.
- 2.27 Based on the analysis in this report, it is not considered that any environmental gains, that might be capable of being secured by the proposal, would be sufficient to offset the demonstrable harm caused by the encroachment of residential development into this part of the nationally designated AONB, beyond the village confines, and the resulting harm to the landscape character and appearance. The statement accompanying the application

contends that the provision of three residential units would amount to a sufficient benefit to justify development beyond the current confines. With respect, this position is not accepted. At best this would be a very modest benefit, which would be clearly outweighed by the presumption in the NPPF to give 'great weight' to the conservation of the landscape and scenic beauty of the AONB. No other material considerations have been advanced in this case that would suggest an alternative conclusion. It will also be noted that in the absence of a reptile survey, it has not been demonstrated that the proposal would satisfactorily address the potential for safeguarding protected species. In the circumstances, it is considered that the environmental impacts of the application are unacceptable and the proposal would not amount to sustainable development.

### Conclusion

- 2.28 The site lies outside the village confines and is within the open countryside for the purposes of planning and within the AONB where it is considered important to conserve the landscape and scenic beauty of the area. While the application is for outline permission with all matters reserved and no elevations or site plans have been submitted, the erection of three dwellings would introduce a linear built form of development onto this currently open site which would inevitably visually urbanise the appearance of the site. The site is located at the base of the valley and therefore is highly visible from higher ground as well as the bridleway which runs to the north of the site. The development as proposed would therefore be harmful to the character and appearance of the countryside and the AONB in which it is sited.
- 2.29 The proposed development cannot be considered to be an acceptable departure from Core Strategy Policy DM1. Relative to the requirements of the NPPF, it is concluded that the proposal would not amount to sustainable development. It would also conflict with the specific policies in the NPPF relating to safeguarding the AONB, which under the requirements of paragraph 14 indicate that permission should be withheld. It is not considered that any other material considerations prevail in this case that would justify an alternative conclusion such to warrant the grant of outline planning permission.
- 2.30 The application site is considered to be a suitable habitat for protected species and no protected species surveys have been carried out as part of the application. The application cannot be considered to accord with paragraph 118 of the NPPF.

### **g) Recommendation**

- I PERMISSION BE refused on the following grounds:-
- i) The proposed development would result in a linear, obtrusive and urban form of development in the open countryside, beyond the settlement confines, which would detract from the unspoilt rural character of the area and the setting of the village of Alkham and the character and appearance of the Area of Outstanding Natural Beauty within which the site lies. In particular, the proposal would be contrary to Dover District Core Strategy Policies DM1, DM15, DM16, paragraphs 109 and 115 of the National Planning Policy Framework and Policies SD2 and SD03 of the Kent Downs Area of Outstanding Natural Beauty Action Management Plan 2014-2019; ii) The proposal fails to demonstrate that there would be no harm to reptiles, failing to preserve or enhance biodiversity, contrary to Paragraph 118 of the National Planning Policy Framework.

Case Officer

Cheryl Mercer