

a) **DOV/16/01467 – Outline application for the erection of a detached dwelling - Site at Statenborough Farm Cottage, Felderland Lane, Worth**

Reason for report: To consider the implications of giving full weight to Development Plan policies relating to the supply of housing following the recent achievement of a 5-year housing land supply.

b) **Summary of Recommendation**

Planning permission be refused.

c) **Planning Policies and Guidance**

Core Strategy (CS) Policies

- DM1 - Prevents development on land outside urban boundaries and rural settlement confines unless if functionally requires such a location, or it is ancillary to existing development or uses.
- DM11 - Seeks to manage travel demand and to prevent the increase of travel outside the settlement confines.
- DM15 - Seeks to protect the countryside for its own sake

National Planning Policy Framework (NPPF)

NPPF - Design

Paras 56-59, 61 and 64 seek to improve the visual quality and character of areas through new development.

Paragraph 17 sets out the Core Principles of NPPF to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

NPPF - Housing

Paragraph 14 of the NPPF requires that where the development plan is absent, silent or relevant policies are out-of-date development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the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 47 requires LPAs to boost significantly the supply of housing to ensure that the local Plan meets the full, objectively assessed needs for market housing.

Paragraph 49 of the NPPF states that “housing applications should be considered in the context of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5-year supply of housing.

Paragraph 55 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Local Planning Authorities should avoid isolated homes in the countryside unless there are special circumstances such as: the design is of exceptional quality or innovative design.

Kent Design seeks to promote understanding context with good design.

d) **Relevant Planning History**

DOV/16/1153 – Granted, for a detached house within the grounds of Solanum which is served by the same access and is almost opposite the application site. That proposal, granted in October 2016, was granted outline permission with layout and means of access to the site given detailed approval. The proposal was for a 3-bedroom chalet and garage.

e) **Consultee and Third Party Responses**

Parish Council: No objections

Environmental Health Officer: To safeguard from the risks of contamination, a planning condition is suggested. Control of the hours of construction is also sought through the imposition of a condition to limit construction to between 0800 and 1800 hours during the week, and between 0800 and 1300 hours on Saturdays.

1 letter from a nearby occupier, and on which Notice was served as he is an owner of some of the land within the application site, has been submitted that raises no objections to the application and has a neutral stance.

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

Site

1.1 The application site is a rectangular plot of land related to and located to the rear of Statenborough Farm Cottage. A garage exists on the land, with a driveway in front, and is accessed from a private road leading from Felderland Lane. The remaining area of the site is laid to lawn and surrounded by a well-established, mature hedge.

1.2 Statenborough Farm Cottage adjoins the site and is an attractive Victorian, 2 storey cottage with a single storey rear extension to its rear boundary. Its main entrance/front elevation faces onto Felderland Lane and it has a side garden extending as far as the private road that serves the garage to the rear.

1.3 Surrounding development consists of some houses and a number of agricultural and farm buildings. To the south and west are two large agricultural buildings with a large hard surfaced parking and turning area in front. Recently, one of these buildings has been converted into a retail shop and brewery. The uses of the brewery building and the areas in front are controlled by planning conditions – mindful of the proximity of the cottage and other nearby dwellings and the living conditions of the occupiers of these dwellings.

- 1.4 Felderland Lane serves a number of cottages and farm buildings and does not have footways or highway verges, but has mostly fields adjoining the highway and gaps between buildings contributing to a mostly open character and rural appearance.
- 1.5 The Lane is a route from the A256 Sandwich Road to the A258 Deal Road and is served by a bus service.

Proposal

- 1.6 The proposal is in outline with layout and the means of access to the site matters for determination at this stage.
- 1.7 The proposal seeks to erect 1 x 2-bedroom cottage and a double garage on the land (which would be shared with the existing cottage).
- 1.8 The cottage is proposed towards the southern boundary of the plot, some 8m from the existing cottage which is to the north, but with its side elevation orientated towards the cottage. There are rear windows in the existing cottage which would look towards the side elevation of the proposed dwelling.
- 1.9 The garage is proposed towards the eastern boundary, in a similar location as the existing garage to be demolished. A private garden area to the west and south and east of the proposed dwelling would be created, although some of its areas would be overlooked by the windows in the existing cottage.
- 1.10 Views from the upper floors of the new dwelling would face onto and towards the hard-surfaced parking/delivery areas of the adjacent agricultural buildings to the west and towards Nursery Cottage to the east.
- 1.11 No changes to the existing access are being proposed – the existing access would continue to serve the plot.

2. Main Issues

Principle of Development

- 2.1 An assessment is required as to the acceptability of the principle of the development on this site. The determination of the application should be considered within the context of development within the countryside, safeguarded by policies to protect the countryside and to restrain development within it.
- 2.2 The application site falls outside the confines of the nearest Village or Local Centre (by some 0.8-0.9km) and therefore represents a housing development within the open countryside, albeit the application site is surrounded by a small cluster of houses and farm buildings.
- 2.3 Until 1 March 2016, the Council was not able to demonstrate a 5-year supply of deliverable housing sites – having been in deficit in meeting the housing needs of the district for many years. However, this

position changed with the adoption of the Council's Authority Monitoring Review February 2017 (Covering the year April 2015-March 2016), which showed that the District has a Housing Land Supply of 6.02 years.

- 2.4 As such, the Local Planning Authority can now demonstrate a 5-year supply making the housing policies of the Core Strategy 2010 and Land Allocations Document 2015 DPDs relevant and up-to-date in the context of Paragraphs 14 and 49 of the NPPF. Therefore, the Development Plan's housing policies carry full weight, in the context of NPPF.
- 2.5 On the basis of the development plan as the starting position for the determination of the application – full weight should be given to the Core Strategy and Land Allocations Document because the objectively assessed housing needs of the District are being and will be met along with a 5-year supply of housing coming forward within the district to meet its needs for sustainable growth. It follows therefore that as the application site is not within the built confines of a Village or Rural Centre the proposal is in conflict with Development Plan Policies DM1, DM11 and DM15.

Character and Appearance

- 2.6 With the exception of the principle of development, only the layout of the proposed building and the means of access to the site are to be determined at this stage. This makes a detailed assessment on the impact of the proposal on the character and appearance of the area limited.
- 2.7 Notwithstanding, the land accommodates a garage building and is a parcel of land mainly enclosed by a hedge and boundary wall to the cottage that has the appearance of a garden/recreational land used in conjunction with the main cottage. Although the land has a building on it, it has an open character and appearance.
- 2.8 The site is located within the wider context of a number of houses, farm and other buildings associated with the site's countryside location.
- 2.9 It is considered that a new house in this location would not be viewed in isolation from these other buildings and therefore would have a limited visual impact upon the wider countryside, and its setting. Nevertheless, it would be visible from Felderland Lane and the Sandwich Road junction and would have the effect of consolidating residential built development in a location well beyond settlement confines where, in the interest of countryside protection, development should be very strictly controlled, with the exception of particular circumstances (such as the needs of an agricultural worker) which importantly this proposal does not seek to address or satisfy.
- 2.10 As such, while the proposal is not considered to unduly affect the wider landscape character of the area it would erode, albeit modestly, the rural character at this point.
- 2.11 The proposed house occupies a modest footprint on the land and there

is scope for garden land around it to provide an appropriate setting for the house that would relate to the nearby residential plots of land.

Residential Amenity

- 2.12 The existing cottage, in losing its garden/outdoor area, is able to retain a private garden to the side and partly to the rear, and the use of a shared garage on the application site.
- 2.13 The proposed house is sufficient distance from the existing cottage to be designed to avoid any over dominant impact upon existing windows or garden areas.
- 2.14 The design of the new dwelling would be able to avoid inter-visibility between existing and proposed windows and would be able to incorporate into the scheme some private garden areas for the new dwelling – to be enjoyed by its occupants.
- 2.15 The conditions imposed upon the uses in the nearby agricultural building have sought to safeguard the residential amenity of the occupiers of those nearby properties. Although the rear windows are likely to look onto the open yard area of the adjacent site there would be no impediment on outlook or visual amenity. The visual amenity is also compensated by the more open views to the east – and bedrooms could be located with windows facing eastward to achieve a reasonable prospect.
- 2.16 As such, it is considered that the existing and future occupiers of the existing and the proposed dwellings would be able to enjoy a reasonable standard of living.

Highway Safety

- 2.17 There are no highway objections to the increased use of the private access onto Felderland Lane by the addition of 1 dwelling.

Other Matters

- 2.18 Under application DOV/16/1153, outline planning permission was granted for a house on a plot of land almost opposite this current application site, served by the same access road. At the time of making that decision, the Council did not have a 5-year supply of housing and therefore limited weight could be afforded to the housing strategy of the Core Strategy and Policy DM1 in particular. The decision was led by Paragraph 14 of the NPPF and the presumption in favour of sustainable development. It was considered by the Officer that even though the location of the site was some distance from the nearest settlement confines, the proposal was, on balance, suitably sustainable.
- 2.19 It is primarily due to the backdrop of this previous decision that this current application has been brought before Members. The application of policies in the Core Strategy relating to the supply of housing had to be given considerably less weight at the time of the decision on DOV/16/1153. The conclusion section of this report (below) considers

the implications/consequences of now giving full weight to Development Plan policies following the achieving of a 5 year housing land supply.

Conclusion

- 2.20 The change in the Council's housing supply position and the fact that the Council can now demonstrate that there is a continuous 5-year supply of housing means that the policies of the Development Plan can be given full weight. This means that the starting position for the determination of this application is Policies DM1, DM11 and DM15. These policies seek to restrict housing development to the built-up confines that have been identified in the Core Strategy, to limit the requirement to travel outside the built-up areas and to protect the countryside for its own sake.
- 2.21 It is important to point out that Policy DM1 is underpinned by Policy CP1 (Core Strategy) which identifies a Settlement Hierarchy to inform where development should be focused and when it should be restricted. Policy CP1 states, "The location and scale of development in the District must comply with the Settlement Hierarchy".
- 2.22 Policy CP1 identifies those settlements capable of accommodating development and under Policy DM1 settlement confines are applied to inform where development at these locations will/will not be acceptable.
- 2.23 Policy CP1 identifies 'hamlets' as the smallest settlement type and specifically states that these are, "not suitable for further development unless it [the development] functionally requires a rural location". As such, no confines have been applied to these small communities under Policy DM1, the presumption being that their role is not to accommodate further development. This position is particularly material to the current application and confirms that even where a dwelling is proposed at a Hamlet (comprised perhaps of a small cluster of buildings) the Core Strategy is clear that it should be restricted unless a rural location is functionally required. In the case of housing, this would generally mean only considering development where there is an essential/proven need for a rural worker to live in the countryside.
- 2.24 At hamlets and other countryside locations (beyond confines) therefore the Core Strategy is unambiguous that housing development should be very strictly controlled. To depart from this approach, contrary to Policy DM1 would, as stated at paragraph 1.7 of the Core Strategy, require "unusual and compelling justification for permission to be given". It is also appropriate to highlight that allowing new housing without such justification would in itself cause harm.
- 2.25 Policies CP1 and DM1 are fundamental to realising the over-arching spatial strategy of the Plan. The current application proposal, being a departure from the development plan would conflict with this central plank of the Core Strategy and if permitted would skew the clear strategy of the Development Plan which is to focus residential development within settlement boundaries.

- 2.26 Paragraph 1.6 of the Core Strategy also makes it clear that one of the reasons for operating settlement boundaries is to bring certainty to decisions on planning applications. This would be undermined by the granting of permission for residential development which was not in compliance with policy and for which no exceptional justification could be provided. Such an approach would also be in conflict with the NPPF which (at paragraph 17) identifies as a core planning principle, the operation of a genuinely plan-led system within which decisions on planning applications can be made with a high degree of predictability and efficiency.
- 2.27 It is important therefore, in the interests of the credibility of the Development Plan system and the operation of the Development Management service that decisions on planning applications accord with the Development Plan or are otherwise exceptionally justified in light of other material planning considerations, as a departure from the Development Plan.
- 2.28 With regard to the current application, both the Core Strategy and the NPPF list circumstances where a new dwelling might be exceptionally permitted outside confines and in isolated rural locations. As has been stated, this would usually include where the dwelling is needed to meet an essential need for a rural worker to live/work in the countryside. The NPPF also refers to allowing new build dwellings where they are of exceptional quality or the innovative nature of the design would be truly outstanding/innovative, reflect the highest standards in architecture, significantly enhance its setting and be sensitive to the defining characteristics of the local area.
- 2.29 The current application however has not been presented with a view to addressing any of these justifications. No “unusual and compelling” case has been presented that would suggest that permission should be given. As a consequence, and in conclusion, the proposal is considered to be in substantial conflict with the development plan and its up-to-date strategy for sustainable growth to meet housing needs.
- 2.30 The previous grant of permission nearby (under DOV/16/1153) was made at a time when Development Plan policy was (for reasons relating to the absence of a 5 year housing land supply) not considered up to date. That position has now substantially changed and the approach set out in the Development Plan must now be fully re-engaged.
- 2.31 The benefit of a plan-led process, within which decisions on planning applications can be made, is that this leads to a high degree of certainty, consistency and transparency in decision making. The determination of planning applications in accordance with the policies of the Development Plan is fundamental to ensuring such certainty and consistency. No material considerations have been put forward and/or apply in this case sufficient to set aside the policy approach set out in the Core Strategy and therefore the recommendation is that this application be refused.

g)

Recommendation

- I PLANNING PERMISSION BE REFUSED for the following reason:
 - (i) The site is located outside of any urban boundaries or rural settlement confines. Therefore, the proposal, if permitted, would result in the consolidation of residential development within the rural area and would result in a wholly unsustainable form of development that would be contrary to Dover District Core Strategy Policies CP1, DM1, DM11 and DM15 and the National Planning Policy Framework paragraph 17.

Case Officer:
Vic Hester