

a) **DOV/17/00135 – Erection of one pair of semi-detached dwellings, formation of four car parking spaces and construction of two vehicular accesses - Land fronting Bevan Close and rear of 223 Telegraph Road, Deal**

Reason for report: The number of third party representations.

Committee also needs to be advised the applicant has made an appeal to the Planning Inspectorate against non-determination in relation to this application. The decision on the application now rests with the Planning Inspectorate. However, the Committee is now asked to resolve what decision it would have made had it still been required to determine the application. That resolution will then form the basis of the Council's case to the Planning Inspectorate.

b) **Summary of Recommendation**

Planning Permission be refused.

c) **Planning Policies and Guidance**

Dover District Core Strategy Adopted 2010

- 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 DM13 states 'parking provision should be a design led process based upon the characteristics of the site, the locality, the nature of the proposed development and its design objectives. Provision for non-residential development, and for parking provision, should be informed by Kent County Guidance SPG4, or any successor. Provision for residential development should be informed by the guidance in the Table for Residential Parking'.

Development Plan

National Planning Policy Framework (NPPF) (2012)

- Paragraph 7 sets out 3 dimensions to sustainable development – the economic, social and environmental role which should not be undertaken in isolation.
- Paragraph 14 states 'that at its heart there is a presumption in favour of sustainable development. Where the development plan is absent, silent or out of date this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole'.
- Paragraph 17 sets out "Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should...  
Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings...  
Conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations..."

- Paragraph 56 states “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 to making places better for people.”
- Paragraph 58 sets out “Planning policies and decisions should aim to ensure that developments.... respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.”
- Paragraph sets out “60. Planning policies and decisions should not attempt to stifle innovation. It is, however, proper to seek to promote or reinforce local distinctiveness.”
- Paragraph 61 states “Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, 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 64 set out “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”
- Paragraph 152 sets out that local planning authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development, and net gains across all three. Significant adverse impacts on any of these dimensions should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where adverse impacts are unavoidable, measures to mitigate the impact should be considered. Where adequate measures are not possible, compensatory measures may be appropriate’.
- Paragraph 203 states ‘that local planning authorities should consider whether otherwise acceptable development could be made acceptable through the use of conditions or planning obligations. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects’.

#### Other Guidance/Relevant Matters

National Planning Policy Guidance

Kent Design Guidance.

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

DOV/14/01119 – Erection of a pair of semi-detached dwellings and creation of vehicular access – refused.

DOV/15/00197 – Erection of a pair of semi –detached dwellings, creation of vehicular accesses and associated parking – refused by planning committee.

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

Deal Town Council: No objection.

Public Representations: Nine letters of support have been received and are summarised below:

- It can only be good for the area and Deal town;
- It will be nice to see something built on this currently unused piece of land;
- This would benefit the area with more housing (which is much needed)
- The road would look more presentable;
- It's a dumping site

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

- 1.1 The site relates to a plot of land fronting Bevan Close, located to the rear of no. 223 Telegraph Road. The site is within the urban confines of Deal and is located adjacent to the recently built development to the north-west and south-west.
- 1.2 The land form rises from Telegraph Road towards Foreland Square. The land has been used for the disposal of soil and building rubble during the construction of Bevan Close, as a result of this the land level is higher than the adjacent land in Telegraph Road by around 1 metre.
- 1.3 The site is separated from the garden of No. 223 Telegraph Road to the southeast by a closeboarded fence with existing mature hedging planted within the application site. A new access road has been created from Telegraph Road into Bevan Close.
- 1.4 The application site has a street frontage which measures 2.1m and has a depth of between 11.2m and 14.6m. The site is currently overgrown.
- 1.5 Planning permission is sought for the creation of a pair of semi-detached dwellings and creation of vehicular access. The proposed dwellings would each have three bedrooms and a bathroom at first floor level and a living room, kitchen/dining room and WC at ground floor level. Each of the properties would have two parking spaces to serve the dwellings. The dimensions of the properties are 8.2m by 5.5m, with an eaves height of 4.8m and an overall height of 8.1 metres.
- 1.6 Two previous applications have been refused. The first DOV/14/01119 was for the erection of a pair of semi detached dwellings and creation of a vehicular access. This was refused on the following grounds;
  - The proposal, by reason of its scale, height, form and siting in close proximity to the neighbouring properties on Telegraph Road would result in an unacceptable level of actual and perceived overlooking to the rear gardens of no. 223 and 221 Telegraph Road by virtue of the increased land levels and fenestration arrangements.

A subsequent planning application was received DOV/15/00197 for the erection of a pair of semi detached dwellings, creation of vehicular accesses and associated landscaping. This was refused by planning committee on the following grounds;

- The siting in close proximity to the neighbouring properties on Telegraph Road would result in unacceptable level of actual and perceived overlooking to the rear gardens of No. 223 and 221 Telegraph Road by virtue of the increased land levels and fenestration arrangements, contrary to the aims of the National Planning Policy Framework and the Kent Design Guide.

## **2. Main Issues**

### **2.1 The main issues for consideration are:**

- principle of development;
- impact of the development on neighbouring properties;
- design and impact of the development on the street scene;
- highway safety.

## **3. Assessment**

### **Principle**

- 3.1 The site is located within the urban confines where development is generally considered to be acceptable and therefore the use of the land for the residential development would be in accordance with Policy DM1 of the Core Strategy.

### **Impact on Neighbours**

- 3.2 It should be noted two previous planning applications have been refused due to the unacceptable level of actual and perceived overlooking to the rear gardens of No.223 and 221 Telegraph Road by virtue of the increased land levels and fenestration arrangements.
- 3.3 The fenestration arrangements remains similar to the planning application refused in 2014 (DOV/14/1119). The dwellings have been designed to incorporate sets of four windows within the first floor rear elevations. The bedroom windows at first floor would be served by projecting oriel windows which would have solid side panels, to one side and could be conditioned so that the window casement would be obscure glazed with the solid panel to be retained in situ. The other first floor windows each serve a bathroom and would be obscure glazed, which again could be conditioned. It is accepted these alterations could alleviate the direct overlooking into the main garden area of number 223 Telegraph Road. However, given the position and size of these rear windows, it is considered there would be a significant perception of being overlooked.
- 3.4 At ground floor level within the rear elevation the window arrangements now show a set of patio doors and a single facing window towards the side boundary of 221 Telegraph Road and the use of a 1.7 metre closeboard fence as denoted on the plan. The existing screening along the rear boundary of the application site would be retained. It should be noted that the topography of the land is significantly higher (approximately 1 metre) on the application site and on the dividing boundary. Due to the positioning and height of the fence, coupled with its close proximity to the rear of the proposed dwellings (3.7 metres), this arrangement would likely to result in an oppressive and overbearing form of development in respect of the existing living conditions enjoyed by the occupiers of 221 Telegraph Road and the future occupants of the proposed development.
- 3.5 Although there is an existing screen (a row of conifers) to the rear boundary of the site along Telegraph Road, it is likely there would be pressure to remove these trees to allow natural daylight into the site and ground floor windows serving the living accommodation, due to the close proximity of the trees. Although a condition could be secured to retain this screening, this would have to be balanced against achieving a suitable living environment for new occupants.
- 3.6 The proposal is for a pair of two storey semi -detached dwellings, with a ridge height of 8.1 metres and an eaves height of 4.8 metres. As discussed above the

topography of the land is significantly higher on the application site than those properties fronting onto Telegraph Road. Given the proposed height, scale and close proximity of the proposed dwellings and the proposed means of enclosure it is considered the resultant development would be an overbearing and oppressive form in respect of the occupants of the surrounding area, in particular at 221 and potentially 223 Telegraph Road. Paragraph 17 of the National Planning Policy Framework refers to the importance of achieving good standards of amenity for existing and future occupants of land and buildings. In this instance, for the above reasons the level of harm to existing occupants, and low quality level of amenity for new occupants would be unacceptable.

### 3.7 Design and Impact of the Development on the Street Scene and Highways

3.8 The site layout and form of the development appears to be relatively commensurate to the urban grain of the new adjacent development. The dwellings in design, appearance and layout terms are generally reflective of the existing newly developed plots in Bevan Close. It is acknowledged the application site has been used for the disposal of soil and building rubble during the construction of Bevan Close, so on balance the site would bring benefits to the appearance of the street scene and 'tidy up' the site with a pair of well designed dwellings which generally reflect the character of Bevan Close.

3.9 Despite the common feature of the rising land levels the proposed site is already built up and because of the land levels now being higher it is likely that the new dwellings would result in a more prominent form of development here. However, there is a mix of spatial character within the local vicinity and as such it is not considered the proposed development would look out of place.

### 3.10 Highways

3.11 Kent Country Council Highways have not raised any objection to the proposal. The proposed dwellings would have two parking spaces each which is in accordance with DM13. If planning permission were to be granted then spaces could be conditioned to be safeguarded.

## 4. Conclusion

4.1 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development meaning that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. The development is in the confines so is acceptable in principle. It is acknowledged that the development of the site would bring benefits to the appearance of the street scene and "tidy up" the site. However, these benefits have to be balanced in particular against the harm to the residential amenity of neighbouring occupants and the future occupants of the proposed dwellings. The proposal is considered to be unacceptable in that the perceived overlooking would result in an unacceptable loss of privacy to the adjacent dwellings as a result of its fenestration arrangements and elevated position. In addition to this the significant difference in land levels, coupled with the proposed height, scale and the close proximity of the dwellings would result in an overbearing and oppressive form of development, contrary to the aims and objectives of the National Planning Policy Framework. On this basis the adverse impacts of the development significantly outweighs the benefits.

It could be that one single storey dwelling would be acceptable on this site. However, care would need to be taken over any potential for overlooking in particular.

g) **Recommendation**

If an appeal for non-determination had not been received Permission for REFUSAL would be recommended for the following reasons:

1. The proposed development, by reason of its scale, height, form and siting in close proximity to the neighbouring properties on Telegraph Road, would result in an unacceptable level of actual and perceived overlooking to the rear gardens of 221 Telegraph Road by virtue of the increased land levels and fenestration arrangements, contrary to the aims of the National Planning Policy Framework, in particular paragraphs 56, 58, 60, 61, and 64 and the Kent Design Guide.
2. The proposed development, by virtue of the proposed height, scale of the proposed dwellings, coupled with the topography of the application site would result in an overbearing and oppressive form of development in respect of the occupants in particular 221 and 223 Telegraph road at a level that would be harmful to the residential amenity in conflict with the aims and objectives of the National Planning Policy Framework.

Case Officer

Karen Evans