

**DOV/17/01492 - Erection of a detached dwelling, formation of vehicular access and parking and the erection of a 1.8 metre high fence fronting highway (existing wall to be demolished) - Land adjacent to 51 Balmoral Road, Kingsdown**

Reason for report: The number of third party representations.

b) **Summary of Recommendation**

Planning permission be refused

c) **Planning Policies and Guidance**

Core Strategy Policies

- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.

Dover District Local Plan

None relevant

Land Allocations Local Plan

None relevant

National Planning Policy Framework (NPPF)

- Paragraph 7 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that “planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise”.
- Paragraph 12 states that the NPPF does not change the statutory status of the development plan. Development which accords with an up-to-date development plan should be approved and development which conflicts should be refused unless other material considerations indicate otherwise.
- Paragraph 14 of NPPF sets out a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the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 development should be restricted.

The Council has recently identified the need to undertake a Local Plan Review on the basis that some of its evidence base and needs assessment criteria pre-dates the NPPF. As such, the requirements of Paragraph 14 are triggered.

- Paragraph 17 of the NPPF sets out 12 Core Planning Principles which, amongst other things, seeks to: proactively drive and support sustainable economic development; secure high quality design and a good standard of amenity for all existing and future residents; recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it; and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, conserve heritage assets and focus significant development in locations which are or can be made sustainable.
- Paragraph 34. Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 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 five-year supply of housing sites.
- Paragraph 56 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 58 advises, amongst other things, that decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.
- Paragraph 63 advises in determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
- Paragraph 64 advises that 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.
- Chapter six of the NPPF seeks to significantly boost the supply of housing, requiring Local Planning Authorities to identify specific deliverable sites sufficient to provide five years’ worth of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- Chapter seven requires good design, which is a key aspect of sustainable development.

#### The Kent Design Guide (KDG)

- The Guide provides criteria and advice on providing well designed development.

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

DOV/17/0949 – Outline application with all matters reserved for the erection of a dwelling – Withdrawn.

PE/16/00190 – pre-application advice sought for the erection of a detached dwelling, advice given was (summarised);

*‘I am concerned about the development of this residential garden plot, bearing in mind the existing open and spacious nature of this location and the contribution this*

*makes to the wider character and appearance of the area. There is a concern therefore that by infilling this corner plot the site would appear cramped and overdeveloped... I would also raise a concern over the close proximity of the proposed new dwelling to the existing dwelling and neighbouring property, no. 75, which has the potential to result in a cramped form of development, which is not commensurate with the overall character and appearance of the street scene and could therefore be likely to result in some harm. ...Having raised these concerns, it is however considered that there is the potential to accommodate a small detached dwelling on site, subject to addressing the points raised above'.*

e) **Consultee and Third Party Responses**

Southern Water: There are no public surface water sewers in the area, alternative means of draining surface water from the development are required.

Ringwold and Kingsdown Parish Council: Objects to this planning application for the following reason;

- The height of the proposed building is not in keeping with the existing adjacent property.
- This will affect the look of the area on that side of the Balmoral Road.
- The Design Access statement confirms that the advice given, thought it was possible that a small dwelling might be considered acceptable.
- The application has been submitted for a two storey dwelling, this is based on the height of other buildings in Balmoral Road.

Third Party: Six letters of support have been received, other than stating support the only comment made is as follows;

- I feel that this will be a nice addition to the street

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

- 1.1 The site lies within a wholly residential area of Kingsdown. The area has a uniform character with linear and perimeter block development. The scale and form of development is characterised by modest detached or semi-detached bungalows. Most of the bungalows on this particular side of the street are single storey and have shallow pitched roofs. Properties opposite the site, on higher ground have steeper pitched roofs and have accommodation in the roof space. A large detached dwelling is being constructed across the street to the north. The material pallet in the area is generally red stock brick under a red tiled roof.
- 1.2 The dwellings are generally separated by two driveway widths and there is a strong building line which sets the dwellings back from the edge of the public highway by approximately 10m. The dwellings sited on the corner of the perimeter block have spacious side gardens. The sense of openness in Balmoral Road is achieved by the low brick boundary walls, the shallow pitched roofs and the views of trees and vegetation between the dwellings.
- 1.3 The land level in Balmoral Road and across the site varies, the height of the land gently decreases from south to north and from west to east, and this is reflected in the ridge heights as they gradually step down towards the north.
- 1.4 The site itself would form the severed side garden of no. 51 Balmoral Road, which is a corner plot. 51 Balmoral Road is a modest bungalow with a shallow roof, the ridge runs parallel with the road and has a small projecting gable feature, and a driveway separates it from the adjacent dwelling no.53.

- 1.5 The side garden is well maintained and laid to lawn with shrubs and plants behind the low brick boundary wall. The side garden is clearly open to public views. The side garden is a triangular shape and the width of the plot varies from its pinch point at under 2m to 14m. The plot has a length of 25m.
- 1.6 Planning permission is being sought for the erection of a detached dwelling, it would be 6.5m in height to its ridge and would accommodate three bedrooms and two bathrooms within the roof space. The ground floor would provide open planned living. The new dwelling would be sited 1m away from the common boundary with no.51. Car parking has been shown for two cars at the front of the site and the private amenity space would be sited at the rear of the site adjacent to the boundary of no. 75 Balmoral Road.

## 2. **Main Issues**

- 2.1 The main issues are:
- The principle of the development
  - The impact on the character and appearance of the area
  - The impact on neighbouring properties
  - The impact on the highway network
  - Weighing the proposal in the balance

## 3. **Assessment**

### Principle

- 3.1 The site is located within the village confines of Kingsdown. Policy DM1 of the Core strategy advises that development beyond the settlement confines will not be permitted, thus it is reasonable to assume that development within the confines loosely speaking is acceptable in principle.
- 3.2 A recent High Court decision (*Dartford Borough Council v The Secretary of State for Communities and Local Government & Ors [2017] EWCA Civ 141 (14 March 2017)*) has held that the definition of “previously developed land” (also known as Brownfield land) within the NPPF excludes private residential gardens in “built-up” areas only, but not private residential gardens elsewhere. The judge went on to say that he felt that there was a rational explanation for this, in that “garden-grabbing” is a particular phenomenon of built up areas. Therefore, gardens outside such areas require less protection from development. There is no definition of ‘built up’ in the absence of this it could be reasonable to assume that a site in this location, within the confines and surrounded by residential properties is a built up area and hence this garden site is not previously developed land.
- 3.3 Although the site is not considered to be previously developed land, the success of the application will be dependent on the details of the application. The material planning considerations are assessed in detail below.

### Character and Appearance

- 3.4 As already established above the character is dominated by modest bungalows with shallow pitch roofs, the spacing between and around the plots are regular and uniformed. There is a sense of openness in the street scene which is created by low garden walls and the shallow pitched roofs of bungalows all of which allows views of the vegetation beyond. 51 Balmoral Road is situated on a spacious plot, the open side garden provides an

important attractive space within the street scene which contributes to its character and quality .

- 3.5 The footprint of the proposed dwelling measures 11m x 7m, it would be constructed to within 2m of the northern boundary with Balmoral Road and within 2m of the flank elevation of no.51. As described above most properties have at least a driveway width separation and are set back from Balmoral Road by some 8m. The space around the proposed dwelling would not reflect the spacious setting of the surrounding dwellings. The proposed dwelling would appear cramped within its plot and would not be commensurate with the size of its curtilage.
- 3.6 The height and the design of the dwelling is also a concern. Even though the proposed dwelling would be set at a lower land level the ridge height would be 1m higher than no. 51, this would appear at odds with the general character of those other dwellings in the street, where the majority of the ridge heights step down towards the north. The overall appearance of the building is a two storey dwelling house, this design approach would be out of character with the immediately adjacent dwellings which are single storey with shallow pitched roofs. Car parking and hard surfacing proposed would add to the unsympathetic form and scale of development here. The bulk, scale and siting of the dwelling and its associated hard surfacing and parking would appear as a cramped, intrusive and unsympathetic development, harmful to the visual quality and amenity of the street scene.

#### Impact on Residential Amenity

- 3.7 The side elevation of the proposed dwelling is sited within 2m of the side elevation of no.51, this elevation has three windows and the new dwelling would restrict the outlook and the amount of natural light received, which would be to the detriment of the occupants of no 51. In this regard then, the proposal is considered to be harmful to residential amenity.
- 3.8 No. 75 is sited to the east of the proposed dwelling and whilst it has a window facing the site, it is 10m away which is considered to be an acceptable distance so as not to impact on the amount of natural light received and the outlook.
- 3.9 The proposed dwelling has been designed so that it would not cause overlooking onto adjacent dwellings. The only windows above ground floor level facing no. 51 are roof lights which would have a cill height of 1.7m above the internal finished floor level. If planning permission were to be granted then Members are advised that conditions should be imposed to ensure the cill heights remain as proposed and that conditions should also be imposed to prevent further window openings being inserted. The other first floor windows are in the west elevation and would have an out look over the street.
- 3.10 The standard of accommodation within the dwelling would provide for a good level of amenity for the future occupiers, with sufficient natural light and ventilation. External private amenity space is limited in size and therefore if Members are minded to grant planning permission it is advised that a condition is imposed to remove all permitted development rights for extensions and outbuildings.

#### Impact on the Local Highway Network

- 3.11 Two off street car parking spaces have been shown independently accessible in front of the dwelling, this provision would comply with the standard in Table 1.1 of the CS. The dwelling has a front orientation to the north where as no.51 is orientated to the west, the general pattern of car parking is to be perpendicular to the highway and in tandem between the dwellings, however due to the proposed orientation of the dwelling the car parking layout and siting of the car park area would dominate the corner of the site and would erode the sense of openness created by the green vegetation. Policy DM13 requires the provision of car parking to be a design led approach, there is no indication that the siting of the car park has been informed by a design analysis but more because there is a functional need for the car parking.
- 3.12 Kent County Council Guidance SPG4, which is referenced within Policy DM13, recommends that dwellings provide one cycle parking space per bedroom for residential development. A small shed for bike storage has been proposed in the garden area. Provision for secure bicycle parking could be secured by condition if permission were granted.

### **Conclusion (Weighing the Proposal in the Balance)**

- 3.13 The Council has recently identified the need to undertake a Local Plan Review on the basis that some of its evidence base and needs assessment criteria pre-dates the NPPF. As such, the requirements of paragraph 14 are triggered. Paragraph 14 of the NPPF advises that (amongst other things), where the Plan is out of date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This approach is known as the 'tilted' balance in favour of granting planning permission.
- 3.14 However, it has been identified that the proposed dwelling would erode the sense of openness in Balmoral Road, the dwelling is not commensurate to the size of its plot or the prevailing urban grain as such it would represent a cramped and congested form of development. The siting of the car park has not been a design led approach and this further would erode the open character of the corner plot. In addition the dwelling by reason of its height and two storey design would appear incongruous and dominant adjacent to a low pitched roof bungalow. Furthermore, the siting of the dwelling in such close proximity to no.51 would result in an unacceptable level of harm to the residential amenities of the occupants of no 51, which the NPPF seeks to protect. Member's attention is drawn to the pre-application advice previously given to the applicant and it is not considered that the scheme under consideration overcomes those originally expressed concerns. This proposal if permitted would be contrary to paragraphs 17, 56, 58 and 64 of the NPPF and policy DM13 of the Core Strategy. The adverse impacts of the proposal are considered to be significant and demonstrable and outweigh the benefits of the proposal when assessed against the policies in the Framework.

### **g) Recommendation**

- l) PERMISSION BE REFUSED on the following grounds: (i) Due to its proposed design, height, bulk, size, scale, siting and the provision of car parking and hardsurfacing and given the open nature of the corner plot, the proposed development would appear as an unsympathetic, dominant and cramped form of development which would detract from the visual quality, character and appearance of the street scene and result in a prominent and intrusive form of development, which if permitted, would be harmful to the visual quality of the area

contrary to paragraphs 17, 56, 58 and 64 of the NPPF (ii) By reason of the scale, height and siting of the dwelling, the proposal would appear as a dominant and overbearing form of development which would cause harm to the residential amenities of the occupiers of no.51 Balmoral Road.

Case Officer

Rachel Humber