

- a) **DOV/18/00065 – Erection of a detached dwelling with attached double garage and formation of associated parking (existing buildings to be demolished) - Site between Look Cottage and Rose Cottage, The Forstal, Preston**

Reason for report: Called-in by Cllr Chandler.

- 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.
- DM11 – Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies.
- DM15 - Development which would result in the loss of, or adversely affect the character and appearance of the countryside will not normally be permitted.
- DM16 - Generally seeks to resist development which would harm the character of the landscape, unless it is in accordance with a Development Plan designation and incorporates mitigation measures, or can be sited to avoid or reduce the harm and/or incorporates design measures to mitigate the impacts to an acceptable level.

National Planning Policy Framework (NPPF)

- Paragraph 11 states that planning law requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- Paragraph 14 states that 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 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - 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; or
 - specific policies in this Framework indicate development should be restricted.
- Paragraph 17 states that planning should:

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area.
 - secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
 - contribute to conserving and enhancing natural environment and reducing pollution.
 - Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable
- Paragraph 29 states that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.
 - Paragraph 32 states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
 - 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 61 states that 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 states 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”.
 - Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils.

d) **Relevant Planning History**

DOV/09/00915 - Erection of a detached building incorporating a mixed use of residential dwelling and bed & breakfast and an attached garage. Refused.

DOV/10/01194 - Erection of a detached dwelling and attached garage. Refused.

e) **Consultee and Third Party Responses**

Preston Parish Council

Preston Parish Council objects to this application on the following grounds;

- Whilst this is technically an 'infill' nevertheless it is outside the village confines where there is a presumption against development.
- The proposal is for a large house and, it is considered, the scale of it would not sit comfortably with the surrounding buildings.'

PROW Office KCC

No objections.

Southern Water

It has been advised that it may be possible for the flows from the proposed development to be connected to a nearby public sewer, and the applicant may wish to investigate this option. A formal application for connection to the public sewerage system is required in order to service this development.

It should be noted that Southern Water is currently consulting on the New connections charging process as directed by Ofwat.

The applicant has not stated details of the proposed means of disposal of surface water from the site. Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer.

Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

The applicant is advised to discuss the matter further with Southern Water.

Public Representations

1 letter of objection received raising the following matters:

- Unhappy if the septic tank outlets are directed towards our property.
- The lane is too narrow for regular service vehicles eg. refuse collection, oil deliveries, etc to turn. Emergency vehicles eg. fire engines will also have limited access.

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

1.1 The application relates to a parcel of land adjoining Forstal House which lies outside the village confines of Preston. The site is accessed by a narrow lane at the end of The Forstal which turns into a bridlepath accessing the marshes. The application site has an existing unmade (informal) access off The Forstal. The application site shares boundaries with Rose Cottage to the southeast and Look Cottage to the northwest. Opposite the application site across The Forstal to the east, there is a two storey detached building (agricultural) which has been granted permission for conversion to residential under the prior approval procedure under (DOV/16/00781) in 2016. The application site is about 50m in depth, wrapping around the rear of the residential curtilage of Rose Cottage and forming part of the side boundary of Forstal House.

1.2 The site itself is to grass and contains a number of small weather-boarded buildings, including stables, hay stores and tack rooms, dog kennels, an open barn, the remains of a greenhouse and a metal container.

1.3 The site is within an area which is relatively flat, forming a part of the Preston and Ash Horticultural Belt (District Wide Landscape Character Assessment 2006). Whilst the area is generally relatively flat, the levels across the site fall by just below 1 metre from southeast to northwest.

- 1.4 Between the site and Forstal Lane is an embankment (about 0.5m high) atop which is a 2m high (approx.) hedge with some mature trees. The hedging continues along the site's eastern boundary which adjoins the Rose Cottage. There is mature tree screening along the western site boundary which adjoins Look Cottage. The application site adjoins open countryside to the south. Whilst the existing vegetation along the rear boundary provides some screening, it is relatively sparse permitting views through from open countryside to the south and from various points along Court Lane. The application site is also readily visible from the countryside to the north, beyond The Forstal.
- 1.5 The proposal seeks full planning permission for the erection of a large two storey 5 bedroomed detached dwelling. The dwelling would have a double pitched roof and a pitched roof attached garage, which would be built to the front of the property. The dwelling would be 7.5m in height, 18m in width and 10.5m in depth, but would also have two single storey additions to the side, as well as a conservatory to the rear. The dwelling would be finished in yellow stock bricks, with painted render and slate cladding, under a slate roof.
- 1.6 The dwelling would be sited some 15m back from the road, 30m from the side boundary with Look Cottage and 10m from the side boundary with Rose Cottage. The Planning Statement submitted with the application sets out that the dwelling has been sited almost equidistant between Rose Cottage and Look Cottage, with the garage intended to relate to the outbuildings of Rose Cottage. It states that the proportions and materials of the proposed dwelling have been chosen carefully to resonate with existing buildings in the vicinity and that the density and spacing of the proposal is consistent. Boundaries of the site would remain unchanged, apart from adjacent to the vehicle access point, so that pedestrian visibility splays can be provided.
- 1.7 The application is accompanied by a planning statement. This states that the purpose of the dwelling is to provide a home for the applicant's daughter and her four children who wish to move close to the parents/grandparents but have been unable to access the local housing market.
- 1.8 Weight for the proposal is argued on the basis that the the site is previously developed land, the use of which is encouraged by the NPPF and that overall the proposal satisfies the sustainability objectives (social, economic, environmental) of the NPPF.
- 1.9 The application has been called-in by a Member, on the grounds that it is a unique development which utilises the latest advances in Eco sustainability and an innovative concept of social sustainability.

2. **Main Issues**

- 2.1 The main issues are:
 1. The principle of the development
 2. The impact on the character and appearance of the area
 3. The impact on residential amenity
 4. The impact on the highway network

5. The impact on ecology

ASSESSMENT

Principle of the Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Also, policy CP1 states that the location and scale of development in the District must comply with the Settlement Hierarchy which informs the distribution of development in the Core Strategy. Policy CP1 deems that sites outside of defined settlements are unsuitable for further development unless it functionally requires a rural location.
- 2.4 It was acknowledged in the recent Ash appeal that the 'tilted balance' (under paragraph 14 of the NPPF) would be applied in respect of development proposals for new housing because the Council's housing evidence base is out-of-date. Members will be aware that the Inspector also agreed that the Council does have a 5 year housing land supply. The tilted balance therefore applies here. In essence, in accordance with paragraph 14 of the NPPF, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole. Considerable weight should still be applied to Policy DM1 of the Core Strategy. This states that development will not be permitted unless it is justified by other development plan policies or it functionally requires such a location or is ancillary to existing development uses. No such case has been presented with the application to satisfy the requirements of Policy DM1.
- 2.5 Regard will be had later in this report to whether there are any material considerations which indicate that permission should exceptionally be granted in line with the tilted balance, i.e. whether any harm identified would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Impact on the Character and Appearance of the Area

- 2.6 The site is within a sensitive location, being within the countryside, where policy DM15 applies. This policy directs that planning permission for development that adversely affects the character or appearance of the countryside will only be permitted if it satisfies one of four criteria and the development would not result in the loss of ecological habitats.
- 2.7 The road serving the site (The Forstal) is fronted by residential properties. Beyond the confines, in the vicinity of the application site, however, the character becomes much more loose-knit and semi-rural in character. The proposed dwelling would be of a substantial scale and would be located towards the north of the site. It would be readily visible in public views from The Forstal. From the review of the submitted plans, it is apparent that the application site has an existing unmade (informal) access off The Forstal. The proposed dwelling would require engineering works for the excavation of the existing embankment and the loss of hedging and trees to secure a suitable access to the site. This would significantly erode the character of the rural lane at this point. Views from the lane would be gained of the new dwelling,

which would be seen together with a range of domestic paraphernalia such as hardsurfacing, fences, walls, gates etc, all of which would jar with the relatively unspoilt rural setting and which would have urbanising effect on the immediate area to the detriment of the rural character and appearance of the immediate area. The visual impact of the development is exacerbated by the scale of the development, producing a prominent and dominant form of development which would be visually intrusive at odds with the prevailing character of the area and harmful to the character and appearance of the countryside.

- 2.8 It has been established that the development would adversely affect the character of the countryside; as such Policy DM15 would apply. Regard must be had, therefore, to whether in light of this harm, the proposed development could be acceptable by meeting any of the four criteria listed under Policy DM15 *which include (i) it is in accordance with allocations made in the Development Plan Documents; or (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 it does not result in the loss of ecological habitats*). In respect of these matters, the proposed dwelling would be located in a rural location beyond any designated settlement confines. It is not justified by the needs of agriculture. Whilst it is acknowledged that the proposal would provide a short term economic benefit, by providing employment during the construction phase, it is not considered that it would apply to a sufficient degree to set aside the harm identified. Furthermore, no overriding justification has been provided that demonstrates why it needs to be in this location and why it cannot be accommodated elsewhere. Whilst the development would not result in the loss of ecological habitats, as none of the four preceding criteria would be met, the development is contrary to Policy DM15.
- 2.9 Regard must also be had for whether the development would harm the wider landscape character of the area, as identified through the process of landscape character assessment, in accordance with policy DM16. Where harm is identified, permission could be given if (i) it is in accordance with the development plan and incorporates any necessary avoidance and mitigation measures, or (ii) can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.
- 2.10 Regard has been had to Dover District's Landscape Character Assessment (2006). In respect of this locality, it states; *"the landform is very gently undulating to nearly flat. Very enclosed with high hedges and shelterbelts, although arable land is more open. Woodland and hedgerow trees generally not present. Mature trees generally associated with buildings and settlement. Otherwise hedgerows form dominant cover. The pattern is regular rectilinear, small to medium scale. Occasional arable fields with few internal boundaries, defined by surrounding roads. Land use: Orchards and market gardening. Mostly apples, some cherry and soft fruits. Arable increasingly positioned away from marshland edge. It is largely unspoilt by development, with little 20th century development, mostly confined to 1970's bungalows at the edges of existing settlements [my emphasis]. Strong vernacular styles of thatch, weatherboarding, soft red brick and Flemish influence dominate. Narrow enclosed roads that follow field boundaries (right-angle turns) with Drove roads out to the marshes. Many roads are named as 'Streets', such as Cop Street and Cooper Street, and there are many 'no through roads'.*
- 2.11 Whilst the existing vegetation on the site provides some screening, it would be visible in the wider landscape from the south, from the north, northeast including from various points along Court Lane. It is relevant to note that the curtilage of the

detached agricultural building to the east of the site across The Forstal (granted for conversion to C3) is limited and does not extend towards the west. Therefore, it would not obstruct/screen any views from the north into the site. By virtue of the site's location, topography of the site and the scale of the proposal, it is considered that the proposed development would be significantly at odds with and detrimental to the character of the wider landscape as identified through the process of the Dover District's landscape character assessment, which apart from other factors, also identifies that the area is largely unspoilt by development. As the development is not in accordance with allocations in the development and does not mitigate such harm to an acceptable level, it is contrary to Policy DM16. The NPPF calls for development to take into account the intrinsic character and beauty of the countryside.

- 2.12 Overall, by virtue of the scale, siting and type of development, the proposed development would erode the rural character of the immediate area, introducing an overtly urban form of development into a rural setting. It would also cause significant harm to the wider landscape (DM16). As such, the development would be contrary to Core Strategy Policies DM15, DM16 and aims and objectives of the NPPF.

Impact on Neighbours

- 2.13 The finished dwelling would lie at a distance of approximately 40m from Look Cottage to the west and 27m from Rose Cottage to the east. Having regard for the substantial separation distance, it is not considered that the proposed dwelling would cause harm to the residential amenity of the neighbouring occupiers.

Living Conditions of Future Occupiers

- 2.14 The proposed dwelling, together with their individual rooms would be of a good size, whilst all habitable rooms would be naturally lit. It would be provided with a large private garden and areas which could be used for refuge storage and general amenity space. As such, the living conditions of future occupiers would be acceptable.

Highways/Travel Impacts

- 2.15 Regard has also been had to the Policy DM11 which states that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. The proposed dwelling would give rise to additional (albeit modest) travel in a location beyond settlement confines where the Plan restricts such development and as such would be contrary to policy.
- 2.16 The development would extend/widen the existing (informal) access to the site from The Forstal. It is considered that the proposed access is of a geometry which would be appropriate to serve the proposed dwelling. The Forstal is a relatively narrow road which does not benefit from the provision of footpaths and, in parts, is in a poor state or repair. Whilst this road is far from ideal, it is not considered that it would be inappropriate to provide access to the proposed development, which would generate a relatively low number of additional vehicle movements upon it.
- 2.17 Table 1.1 of the Core Strategy suggests that a minimum of two independently accessible car parking spaces be provided for residents of the dwelling, together with an additional 0.2 spaces per dwelling for visitors, although parking should be a design-led process. The development would accommodate four open car parking

space and two garaged car parking spaces. It is noted that under Table 1.1 of the Core Strategy, it is stated that garages could be counted towards considering the parking provision; however, it should not constitute a significant proportion of overall provision. In this instance, the proposed garages would provide two additional parking spaces for the dwelling. Having regard for the above, the development is not considered to cause severe harm to the local highway network.

- 2.18 The development does not include any defined provision of cycle parking spaces, although the submitted Design and Access Statement confirms that such provision will be made. In accordance with the recommendations of the Kent Design Guide (including Interim Guidance Note 3) and the NPPF, and to encourage and facilitate the use of this sustainable form of transport, it is considered that details for the provision of cycle parking (at one space per bedroom) should be secured by condition.

Ecology

- 2.19 Regard has been had to Natural England's Standing Advice which suggests that in large gardens in suburban and rural areas, the likely presence of bats, breeding birds, badgers, reptiles and great crested newts could be expected. The application site is in a rural location. The surrounding area contains established trees and hedgerows which could provide habitat for protected species. Having visited the site, it was noted that the parcel of land subject of this application comprised managed grass, a few mature trees and a yew hedge. Whilst it is acknowledged that the surrounding area may contain protected species, given the existing vegetation on site, it is not considered that there is any likelihood of protected species being present on site.
- 2.20 There will be some loss of hedge along the front boundary for the creation of a vehicular access. It is noted that the hedge is species poor and as such its loss would have a negligible impact on the biodiversity of the area.

Other Material Considerations

- 2.21 The NPPF is an important material consideration. Sustainability is defined in the NPPF, at paragraph six, as paragraphs 18 to 219 of the NPPF taken as a whole. However, the assessment of sustainability can also be separated into three dimensions: economic, social and environmental. As confirmed above, the Council can demonstrate a five year housing land supply and it is in this context that the NPPF must be read.
- 2.22 The proposed development would provide a short term and very modest economic benefit, by providing employment during the construction phase.
- 2.23 With regards to the social role, it is not considered that the proposal would result in the creation of a high quality environment. Whilst it is acknowledged that the proposed development would provide one dwelling, the benefit associated with it would be negligible as the Council can demonstrate a 5.65 year housing land supply.
- 2.24 Turning to the environmental role, it is considered that the proposal would result in an intrusive form of urbanisation in this part of countryside, which would fail to protect or enhance the natural environment.
- 2.25 The proposed dwelling would be around 150m from the village confines and, given the particular circumstances of this site, it could reasonably be described as being

adjacent to the village. Preston is defined as a 'Village' within the Settlement Hierarchy at CP1 of the Core Strategy. The Land Allocations Local Plan (2015) confirms that the village provides a village hall, a church, a primary school, a playing field, a public house, a village shop, a butchers and a farm shop. It appears that all of these facilities, with the exception of the farm shop, remain. The majority of the facilities and services are to the north of the village, between 0.7km and 1km away. Whilst, therefore, the village has a limited range of facilities, it does not have all of the day to day facilities which would be required and, consequently, future occupants would be highly likely to need to travel outside of the village. The nearest bus stop is located at the end of The Forstal on The Street, around 350m from the proposed dwelling. This bus stop accommodates the No.11 service which provides around five services a day between Thanet and Canterbury, although there are no services on Sundays. Whilst this bus stop is walkable (albeit along The Forstal, which does not provide footpaths), the frequency of service is poor, reducing the attractiveness of bus travel. The next nearest settlement, Wingham (which is a Local Centre) is approximately 2.7km to the south. The nearest train station is a substantial distance from the site. Taking the above facts in the round, it is very likely that the proposal would encourage travel by car, thereby working against the sustainable travel and reduction of the pollution objectives of the NPPF contrary to paragraphs 17 and 29 of the Framework. So, there is lack of compliance with Policy DM11 and the NPPF's sustainable and reduction of pollution objectives to consider.

- 2.26 At point 5 of the planning statement, it is stated that the land is previously developed (PDL). The definition of PDL at Annex 2 of the NPPF states - land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed infrastructure. It excludes land in built-up areas including private residential gardens but doesn't extend this definition to residential gardens in rural areas. Assuming the land is used as garden land to the Forstal House (as claimed in the application), it would technically be PDL. It is acknowledged that the NPPF encourages the use of PDL. In the circumstances of this case however, it is considered that the use of garden land for building would represent, at best, a very modest environmental benefit. However, there are material considerations that would militate against this 'benefit' as such.
- 2.27 The proposal would provide at best only very limited social, economic and environmental benefits; however, this is considered to be more than outweighed by the significant and demonstrable harm caused to the wider environmental objectives relating to the detrimental impact to the countryside and wider landscape and to a more limited extent, and discouraging sustainable travel patterns. To conclude, it is not considered that the development represents 'sustainable development' and is not, therefore, supported by the provisions of paragraph 14 of the NPPF.

3. Conclusion

- 3.1 The application site lies outside of settlement confines, where planning policy strictly controls new development. The proposal doesn't address any of the exceptions allowed for by policy and as such is considered to be unacceptable in principle, contrary to Policy DM1. The proposal would constitute an incongruous and visually intrusive feature in this important wider landscape and the rural environment to the detriment of the character and appearance of this part of countryside contrary to policies DM15 and DM16. The very limited benefits associated with the proposal are considered to be more than outweighed by the significant and demonstrable harm caused to the wider environment. Therefore, the proposal would be contrary to the

Development Plan policies. It would not be supported by the provisions of paragraph 14 of the NPPF and would not constitute a sustainable form of development.

3.2 Members will note that the recommendation for refusal follows two similar decisions by the Council in 2009 and 2011 relating to similar proposals on the same site.

g) **Recommendation**

I PLANNING PERMISSION BE REFUSED for the following reason:

1. The proposed development and its associated engineering works and alterations, if permitted would result in an unjustified dwellinghouse, outside of any defined urban or village confines, the need for which has not been demonstrated sufficiently to override normal restraint policies. The proposal would constitute unsustainable unjustified sporadic residential development in this rural location, resulting in additional vehicle movements and the need to travel by private car and would harm the rural character and appearance of the locality and the wider landscape contrary to policies DM1, DM11, DM15 and DM16 of the Core Strategy and paragraphs 14, 17, 61 and 109 of the National Planning Policy Framework.

II Powers be delegated to the Head of Regeneration and Development to settle any necessary conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Benazir Kachchhi