

- a) **DOV/17/01504 – Erection of two dwellings and creation of parking - Land adjacent to Pegasus, London Road, Sholden**

Number of contrary views (6)

- b) **Summary of Recommendation**

Grant permission.

- c) **Planning Policy and Guidance**

Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan, unless material considerations indicate otherwise.

A summary of relevant planning policy is set out below:

Dover District Core Strategy (2010)

DM1 – Settlement boundaries.

DM15 – Protection of the countryside.

DM16 – Landscape character.

Saved Dover District Local Plan (2002) policies

None.

Dover District Land Allocations Local Plan (2015)

None.

National Planning Policy Framework (NPPF)(2012)

14. At the heart of the National Planning Policy Framework is 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- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: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.

17. Core planning principles... 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;
- take account of the different roles and character of different areas...recognising the intrinsic character... of the countryside... ;

49. Housing applications should be considered in the context of the presumption in favour 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 deliverable housing sites.

56. 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.

d) **Relevant Planning History**

DOV/17/00968 – Erection of three detached bungalows and formation of associated parking – REFUSED.

DOV/16/00887 – Erection of a detached dwelling, creation of vehicular access and parking – GRANTED.

e) **Consultee and Third Party Responses**

KCC Highways – No comment – outside of consultation protocol.

KCC Archaeology – No objection, subject to condition for programme of archaeological work.

KCC Public Rights of Way (PROW) – No objection, subject to informative regarding protection of the PROW.

Southern Water – No objection, subject to informative regarding connection to the public sewer network.

Sholden Parish Council – Objects – Conflict with PROW at access; 5 year land supply – no need; disturbance traffic noise and lighting; rejected in LALP 2015.

Public comments – Objections x 6

Objections

- Access conflict with Pilgrims Way and Eastwood and the PROW, delivery vehicles and disturbance.
- Traffic increase, London Road is busier now than at any time before.
- Land area too small for two dwellings.
- Overshadowing.
- Houses look out of place with neighbours.
- Construction disturbance.

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

Site

1.1. The application site is to the north east of the property Pegasus, on the south eastern side of London Road, Sholden. The land once formed part of the garden of Pegasus. Hedges and trees which occupied the site and created an attractive, soft boundary with the countryside have been cut down. The site is now barren in appearance is enclosed by a 1.5 metre tall close board fence, with 0.3 metre tall trellis, on its north western, north eastern (road fronting) and south western (with Pegasus) boundaries. The site is outside, adjacent to the Deal urban boundary, at its north western end. The public footpath to the south of the site, is a clear demarcation of the end of the built confines. The demarcation runs across London Road into Sholden New Road opposite.

- 1.2. Visually and physically the site has a different character and appearance to the preceding street scene of London Road to the south east and the more recently developed land at Sholden Fields to the east.
- 1.3. The site is located to the north of a public right of way (EE389 leading south west to ED48), which is also used as an access road serving Pegasus, and other adjoining properties to the south east. This also serves as the site access. To the north of the development is the recently constructed housing development Sholden Fields. South east of the site are the two storey dwellings Eastwood and Pilgrims Way, which along with the other dwellings in this edge of confines location, are mature, largely two storey buildings set back from the street with established front gardens.
- 1.4. Site dimensions are:
 - Width – 34.7 metres.
 - Depth – 22.7 metres.
 - Access track from London Road – 11.5 metres.

Proposal

- 1.5. The proposed development comprises the erection of two detached dwellings and the creation of four parking spaces adjacent to public right of way EE389. The parking spaces would be accessed from EE389, which at present is used for vehicular access to Pilgrims Way and Pegasus, and closer to London Road, for Eastwood.
- 1.6. The dwellings would be erected from a combination of stone and brick with slate tile roofing. The dwellings would each feature a front facing gable and would be traditional in appearance. Pedestrian access would be taken directly from London Road.
- 1.7. The dwellings would comprise three bedrooms each. At first floor level in the rear elevations (south east) there would be a window serving a bathroom and a blank/bricked up window. The rear bedrooms would also be served by roof lights. In the dwelling at plot 1 (south east), its south west elevation would comprise two casement windows at first floor level and in the dwelling at plot 2 (north west) its north west elevation would comprise two sets of French doors with Juliette balconies.
- 1.8. The front gardens would be defined by low level planting and 1.2 metre tall hit and miss fencing between the front and rear gardens. The north west site boundary would be delineated by a 1.8 metre tall post and wire fence with native planting.
- 1.9. Approximate dimensions are:
 - Plot 1 width – 16.8 metre (front), 10.3 metres (rear).
 - Plot 2 width – 17 metres.
 - Dwelling depth – 8.8 metres.
 - Dwelling width – 6.6 metres.
 - Eaves height – 4.8 metres.
 - Ridge height – 8.6 metres.
 - Depth of parking spaces – 6 metres.

2. Main issues

- 2.1. The main issues to consider are:
- Principle and the presumption in favour of sustainable development
 - Design, street scene and countryside
 - Residential amenity
 - Highways and Public Rights of Way

3. Assessment

Principle and the Presumption in Favour of Sustainable Development

- 3.1. The site is located outside of but adjacent to the settlement boundary at Sholden, which forms the northern end of the Deal urban boundary. Normally, this would mean that the development is unacceptable in principle, due to being contrary to policy DM1.
- 3.2. A single dwelling was, however, granted permission under DOV/16/00887, at a time when the council could not demonstrate a five year supply of available housing land – therefore engaging the ‘tilted balance’ i.e. the presumption in favour of sustainable development under paragraph 14 of the NPPF. In short, this directs that permission should be granted “unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework [the wider NPPF] taken as a whole”.
- 3.3. Therefore, under specific circumstances the principle of development, for one dwelling, was accepted on this site, whereas previously i.e. where the tilted balance was not engaged, this would likely not have been the case.
- 3.4. Due to the evidence base for housing targets – the Strategic Housing Market Assessment (SHMA) being updated, policies CP2 and CP3 within the Core Strategy are considered to be out of date and the ‘tilted balance’ is once again relevant for the consideration of this application. Its details are considered below. Nevertheless, it is important to understand the complexities of the situation and that although the tilted balance is engaged, full weight can still be afforded to policy DM1, which is itself not considered to be a policy for housing supply – as referenced in the NPPF at paragraph 49.

Design, Street Scene and Countryside

- 3.5. Having established that under a set circumstance an in-principle acceptance of development on this site for one dwelling was established, it is considered that in light of the consideration of previous applications, for two dwellings to now be considered acceptable, there needs to be both a combination of sensitivity in how any proposed dwellings are accommodated and how they relate to the existing urban form, but also strength in how they are designed and how they would provide a new end point to the ribbon development on the south west side of London Road.
- 3.6. The consideration of this point is balanced. The design of the dwellings is considered to be strong, with a traditional form and scale, and strong materials. The site itself, however, poses a more difficult question in that its previous clearance inevitably exposes any development proposal and increases its prominence, particularly to passers-by entering and exiting the built confines at the north-western end of Deal. The public right of way EE389 retains its function as a definitive edge to the urban development and regardless of its form, development beyond this point (on the application site) could appear unduly

'detached' from the existing built character, rather than reading as an integral, natural continuation of it.

- 3.7. The site is now barren with an unsympathetic fence forming the boundary to both the street and the countryside. It is important to note that as part of a residential curtilage, the erection of the fence and removal of trees could have been undertaken without the need for planning permission. So the development proposed does offer the opportunity, through the appropriate and relevant use of planning conditions, to create a soft yet definitive edge to the countryside through the use of a post and wire fence and native planting along the north-west site boundary, and to open up and create an active frontage on to the highway. These aspects would be beneficial to the street scene and rural amenity.
- 3.8. In terms of how the development of the site would affect the countryside, covered by policies DM15 and DM16, it is noted that the supporting text to DM15 considers residential curtilage not to be countryside. Whether this remains the case, given that the site is proposed for development, is a consideration, however, DM15 and DM16 both refer to development that can affect the countryside while not necessarily being a contiguous part of it. In this case, the proposed development would in part be seen in the context of the existing ribbon housing along London Road and the new estate on the opposite side of London Road, such that on balance, combined with the opportunity to provide a benefit to visual amenity, it is considered that the proposal would not result in undue harm.
- 3.9. Accordingly, the design of the proposal, including how it affects the street scene and the countryside, is considered in this particular circumstance, taking into account the history of the site, to be acceptable.

Residential Amenity

- 3.10. **Overlooking/interlooking** - Given that this site is formed of the subdivided garden of Pegasus there are considerations for the amenity of its occupiers. The rear elevation of the proposed dwellings is 9.8 metres and 17.3 metres from the new north eastern boundary at Pegasus and its north eastern elevation respectively, meaning that there is the potential for overlooking from any first floor windows.
- 3.11. This is considered to be addressed by the rear (south west) elevations at first floor level being comprised of a bathroom window and a bricked up/blank window (which would be conditioned to remain as such). Light is provided into the rear bedrooms by high level rooflights. Accordingly, any overlooking towards Pegasus is considered to be addressed.
- 3.12. South east of the dwelling at plot 1 is Eastwood and to the south is Pilgrims Way. The side (south east) elevation of the dwelling at plot 1 contains two casement windows and faces toward the side elevation of Eastwood at a distance of 11.8 metres. The facing elevation at Eastwood contains an obscure glazed first floor window and a further secondary first floor window. There are no ground floor windows although there is an opaque plastic conservatory roof. There is a roof light in the facing roof slope, but this is above the casement windows. Due to the arrangements of windows in this elevation no undue harm from overlooking or interlooking is considered to arise.
- 3.13. At Pilgrims Way a one and a half storey dwelling (12 metres from the side elevation at plot 1), there is a side facing entrance closest to the proposed

dwelling at plot 1, a side facing conservatory with opaque plastic roof and some side windows. The ground floor part of the dwelling is within a semi-private area with a pedestrian access, with the main amenity area located further to the south west and away from the site. There is a dormer window in the side facing roof slope (19 metres from the side elevation of the dwelling at plot 1), however, this is located at an oblique angle to the side casement windows, meaning that there is no direct interlooking. Accordingly, the relationship from the proposed side elevation casement window at plot is considered not to be one that would result in undue harm to the occupiers at Pilgrims Way.

- 3.14. **Overbearing/loss of outlook** - The applicant originally submitted drawings showing the dwellings in a semi-detached arrangement. These drawings were amended in part because of concern for the outlook of the occupier at Pegasus. The dwellings are now each detached which helps to retain some of the existing sense of space and outlook, and reduce any sense of overbearing. In any case, the distance between the north east elevation of Pegasus and the rear elevations of the new dwellings is considered to be acceptable and should not give rise to such concerns.
- 3.15. **Overshadowing** - The location of the proposed dwellings north of any neighbours combined with the distance between the proposed dwellings and the neighbours means that overshadowing is unlikely to occur.
- 3.16. **Disturbance** - Concerns have been raised about disturbance from the use of the proposed parking spaces adjacent to the public right of way and the access outside of Pilgrims Way. While these are located outside of the access to Pilgrims Way, it is considered that there is sufficient space built into the depth of the parking spaces such that manoeuvrability is possible without causing undue harm to neighbours. The public right of way is also used for vehicular access to Pilgrims Way and Pegasus, and it is not considered that four more cars using this would result in undue harm to residential amenity.
- 3.17. Accordingly, the proposed development is considered to be acceptable in terms of residential amenity and any effects that might result from it being granted.

Highways and Public Rights of Way

- 3.18. The proposed development makes use of an existing access onto London Road, and accordingly, falls outside of the KCC Highways consultation protocol. Informal discussion with the highways officer, however, indicates that in highways terms, the proposed development is considered to be acceptable.
- 3.19. Vehicles would need to back into spaces from the access track or back out of spaces on to the access track. In terms of safety, this is likely to be acceptable, as long as vehicles do not back on to London Road, which is unlikely. The depth of the parking area would also assist with manoeuvrability.
- 3.20. The intensification of use of the access, in a location directly opposite the junction of Sholden New Road, has been informally assessed by the highways officer. Due to there being an unlikelihood of many cross highway movements i.e. from the access into Sholden New Road and vice versa, because of onward route limitations, the proposal is considered to be acceptable. The highways officer has also commented that visibility is acceptable moving between the access and the A258.

- 3.21. Four parking spaces are proposed (two for each dwelling) which complies with the parking guidance under DM13 of the Core Strategy. Typically 0.2 visitor spaces are required per each dwelling, however, because there are only two dwellings, this would amount to 0.4. The insignificant requirement for visitor parking, combined with DM13 acknowledging that parking should be a design led exercise, means that the proposed level of parking is considered to be acceptable.
- 3.22. Under DOV/17/00968, the Public Rights of Way officer sought surfacing works to the public right of way, however, possibly related to the reduced number of parking spaces proposed (four, down from eight), the officer has not made the same requests and has provided informatives relating to maintaining access on the right of way and maintaining its surface quality. Accordingly, in relation to the PROW, the proposed development is considered to be acceptable.
- 3.23. The proposed development is therefore considered acceptable in terms of its highways and access arrangements and in terms of any effect on the PROW.

Conclusion

- 3.24. Paragraph 14 of the NPPF, the 'tilted balance', states that permission should be granted unless the adverse impacts of doing so outweigh the benefits when assessed against the NPPF as a whole. Planning performs three key roles in seeking to deliver sustainable development – the economic role, the social role and the environmental role.
- 3.25. **Economic** - The development proposed would benefit the local area in terms of short term contracts to build the dwellings and would then have a small benefit in terms of the eventual residents contributing to the local economy, should they be new residents that is.
- 3.26. **Social** - The proposed development would benefit the local area by offering the opportunity for new residents to move in and take part in the local community. This is recognised as a small scale benefit, however, this reflects the scale of the proposal.
- 3.27. **Environment** - Environmentally, the proposal does represent the loss of garden land, as was, in a location outside of the settlement boundary, although this harmful impact should be offset in part by the existence of a fall back permission for a single dwelling under DOV/16/00887. Two dwellings as opposed to one dwelling in this case is considered to represent an acceptable change, given that the form of the permitted development could not now be delivered, yet there does remain the opportunity to deliver benefits to the street scene. The proposal is not considered to be contrary to the policies DM15 and DM16 in the Core Strategy and on balance is considered acceptable in terms of its environmental impact.
- 3.28. Assessed above, it is considered that in the wider sense of sustainability, and on balance, the proposal is likely to be acceptable.
- 3.29. Assessed in the context of the NPPF, the proposal is considered to represent sustainable development at the edge of an established settlement, where the adverse impacts of the proposal do not outweigh its benefits, accordingly the strict interpretation of paragraph 14, accepting that housing target figures within the Core Strategy are out of date, is to grant permission.

3.30. The public comments make reference to a previously dismissed appeal; however, it was unclear from the records which appeal this is in reference to. In any case, considered against the current guidance, as assessed above, the proposed development is considered to be acceptable on balance and the recommendation is to grant permission.

3.31. All comments have been considered in making this recommendation.

g) **Recommendation**

- I. Planning permission be GRANTED subject to conditions, to include: (1) Time (2) Drawings (3) Samples (4) Obscure glazing and bricked up window to be retained as such in perpetuity (5) Landscaping plan (6) Removal of existing fence north west and north east boundaries (7) Refuse bins (8) Cycle parking (9) Parking and turning area to be retained as such (10) No surface water on highway (11) SUDS (12) PD removal – Class A (extensions), Class B (roof extensions) (13) No garages in rear gardens or vehicular access to rear gardens (14) Archaeology (15) Construction Management Plan.
- II. Powers to be delegated to the Head of Regeneration and Development to settle any necessary planning conditions, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Darren Bridgett