

- a) **DOV/18/00110 - Outline application for the erection of four dwellings (appearance, landscaping, layout and scale to be reserved) - Land at Warren House, Buckland Lane, Staple**

Reason for report: no of representations

- b) **Summary of Recommendation**

Refuse planning permission.

- c) **Planning Policies and Guidance**

Development Plan

The development plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act (2004) comprises the Dover District Council Core Strategy 2010, the saved policies from the Dover District Local Plan (2002) and the Land Allocations Local Plan (2015). Decisions on planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise.

A summary of relevant planning policy is set out below:

Core Strategy Policies

- CP1 – Location and scale of development must comply with the Settlement Hierarchy. Staple is a Village; identified as a tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities
- CP6 – Development which generates a demand for infrastructure will only be permitted if the necessary infrastructure to support it is either in place, or there is a reliable mechanism to ensure that it will be provided at the time it is needed.
- DM1 – Settlement Boundaries. Development not permitted outside urban or rural boundaries unless alternative policies allow.
- DM11 – Location of Development and Managing Travel Demand.
- DM13 – Parking standards
- DM15 - states that development which would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is:
  - i) In accordance with allocations made in 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
  - v) It does not result in the loss of ecological habitats.

Provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character.

- DM16 - states that development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if:
  - i) It is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or
  - ii) It can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.

#### Dover District Council Local Plan 'saved' policies (DDLDP)

There are no saved local plan policies that are relevant to this application.

#### Dover District Land Allocations Local Plan (2015)

There are no relevant policies in this plan.

#### National Planning Policy Framework 2018 (NPPF)

- Paragraph 2 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 8 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental. These three overarching objectives are interdependent and need to be pursued in a mutually supportive way.
- Paragraph 11 states that where development accords with an up-to-date development plan it should be approved without delay; or where there are no relevant policies or the most important policies for the determination of the application are out of date, then also granting consent. Where there is a clear reason for refusing the proposed development due to conflict with an area/asset of particular importance (as identified in the framework); and/or where any adverse impacts of granting permission significantly and demonstrably outweigh the benefits, when taking the Framework as a whole, then planning permission should be refused.
- Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- Paragraph 47 ‘Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing’.
- Chapter five 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.
- Chapter nine of the NPPF seeks to promote sustainable transport.

- Chapter twelve seeks to achieve well-designed places, with the creation of high quality buildings and places being fundamental to what planning and development process should achieve.
- Chapter fifteen requires that the planning system contributes to and enhances the natural and local environment, by recognising the intrinsic character and beauty of the countryside, protecting valued landscapes, geological conservation interests and soils, recognising the value of ecosystems, minimising impacts on, and where possible enhancing, biodiversity, preventing pollution and remediating contamination.
- Paragraph 177 states 'The presumption in favour of development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.'

### **Other Documents**

The Kent Design Guide (KDG)

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

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

80/00292 Kitchen extension - withdrawn

89/00275 Boarding Kennels – withdrawn

89/00746 Erection of stables – granted

95/00413 – Extension to dwelling - granted

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

Staple Parish Council: recommend refusal based on the following concerns:

a) There is already a significant water pressure problem on Buckland Lane and this development would be detrimental to the water service at nearby properties.

b) Buckland Lane already has safety concerns, particularly since the removal of the bus service, which is particularly dangerous for pedestrians with buggies and young children walking to the pre-school. The Council cannot envisage anyway that a safe driveway to the proposed development could be built. In conjunction with access problems safe parking would also be difficult to arrange.

Principal Ecologist: - no comment

Southern Water: No objection. However, they point out that there is no public foul sewer in the vicinity/area of the site and alternative means of foul sewerage will need to be examined. If a septic tank is proposed or private waste water then the Environment Agency will need to be consulted. Arrangements will need to be made for the long term maintenance of SUDS.

Public Representations: 9 letters of objection and 9 letters of support.

The reasons for objection are summarised as follows:

- Safety – brought about by increase in traffic from the site and through the village
- Stretch of Buckland Road between the proposed site access and The Old Forge is particularly dangerous.
- Lack of footpaths is already a concern for parents with small children, walkers cyclists and horse riders.
- The site access is on a blind bend and visibility problems are exacerbated by the steep banks to the site
- Aylesham expansion is already having a noticeable impact on the traffic volume and rat running.
- Insufficient passing bays on the road
- Loss of privacy to properties opposite the site
- Impact on Grade II Listed Building
- Impact on roosting turtle doves on southern boundary of Warren House
- Services – problems with low water pressure in the village; older villagers will be forced out due to the decline in services, loss of the village shop, post office, pub and school
- Land allocation – this site does not form part of a land allocation
- Loss of grade 1 agricultural land
- Siting on higher land unacceptable
- Impact on electricity supply
- Two mile walk to the gp from the village

Non- material objections were submitted in relation to damage to existing properties and increase in littering.

The comments in support of the application are summarised as follows:

- Improved access
- New family housing is needed
- Ideal site for a small development – secluded location
- More residents would support the demand for more facilities in Staple
- Could bring about reinstatement of buses and community facilities which in turn will prevent the village from dying
- Convenient location to the village hall, pre-school and youth club
- The village needs growth
- Location is well screened, will not have an adverse impact on the village

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

The Site

- 1.1 The application site is approximately 0.40 hectares in size and is situated in the Parish of Staple. The site is located on the eastern side of Staple and only the existing dwelling is within the village boundary. The site currently forms part of the garden land of the property Warren House. The existing dwelling (a detached chalet bungalow) is on the southern side of Buckland Lane, an unclassified road, with a stepped pedestrian access to the front elevation; vehicular access is gained at the eastern end of the site. The proposed area for development is currently laid to lawn and has a stable block on the northern side.
- 1.2 The site is on land elevated from Buckland Road by approximately 1.5m. The site does not fall within any specific designation. The northern side of the site is bounded by close board fencing and an external view of the stables. The eastern and southern boundaries have native boundary hedging.

- 1.3 Warren House is opposite a property called Mount Pleasant to the north. To the eastern end is Animal Farm, the Bassetts and a Grade II Thatched listed building – Reed Cottage. To the south is open farmland and Buckland Road which leads to Aylesham.
- 1.4 The site is to the south-east of the centre of Staple; the village has limited amenities which comprise a Church and a village hall. It is understood that the bus service is no longer operational.

#### The Proposal

- 1.5 The application seeks outline planning permission for the erection of four detached dwellings. All matters, save for access, are reserved for future consideration. The application is not accompanied by any indicative drawings, draft layout or design concepts.
- 1.6 Drawings have been submitted showing the realignment of the existing access where it adjoins Buckland Lane. The proposed gradient is stated not to exceed 1:10 for the first 6m and drainage is proposed to prevent surface run off onto the public highway.

## **2. Main Issues**

- 2.1 The main issues for determination are as follows:

- The principle of the development
- Impact on the character and appearance of the locality
- Impact on Highway Safety
- Impact on ecology
- Residential amenity
- Other material considerations

## **3. Assessment**

#### The Principle of Development

- 3.1 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. This advice is reiterated in paragraph 2 of the NPPF.
- 3.2 The site is located within the Parish of Staple. Under Policy CP1 of the Core Strategy, Staple is identified as a Village. The function of a village is stated as being a 'Tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community'.
- 3.3 However, the site is located outside the settlement boundary of the defined village of Staple. Policy DM1 presumes against development in such a location (beyond settlement confines) unless justified by other development plan policies, none of which apply here. The proposal is therefore contrary to Policies CP1 and DM1.

- 3.4 Policy DM11 seeks to manage travel demand and states that development that would generate travel will not be permitted outside rural settlement confines unless justified by development plan policies. There are no other policies which support the principle of the development and as such the proposal is also contrary to Policy DM11.
- 3.5 At the present time the Council is unable to demonstrate a 5 year housing land supply. Paragraph 49 of the NPPF applies whereby relevant policies for the supply of housing should not be considered up to date and this can be a reason for engaging the 'tilted balance'.
- 3.6 Relevant policies in the development plan can also be out-of-date for reasons other than lack of a 5 year housing land supply and thereby also be a trigger for the 'tilted balance'. In March 2017 DDC Cabinet agreed to commence the review of the Core Strategy and LALP through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. With regard to this application, it's recognised that policies in the Core Strategy (Policies CP2 & CP3) are not up to date.
- 3.7 The objectives of Policies CP1, DM1 and DM11 are considered to be broadly consistent with the aims and objectives of the NPPF. That said there is an element of tension between the current framing of DM1 and CP1 and the advice in the Framework/NPPG to the effect that blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence. It's recognised that the evidence underpinning these Core Strategy policies would now warrant review. For decision making purposes this has some effect on the weight to apply to Policies DM1 and CP1.
- 3.8 Whilst there are two potential reasons to engage the 'tilted balance' paragraph 177 of the NPPF states 'The presumption in favour of development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.' This issue of Appropriate Assessment is discussed in more detail later in this report.
- 3.9 Paragraph 79 of the NPPF requires that local planning authorities should avoid new isolated homes in the countryside unless the proposal fits within the following special circumstances:
- The building was of an outstanding or innovative nature;
  - Would provide a rural workers dwelling;
  - Would be the optimum viable use for a heritage asset;
  - Would re-use redundant buildings that would lead to an enhancement of the immediate setting
- 3.10 The term 'isolated' is not defined in the NPPF but within the special circumstances reference is made to farm workers dwellings or conversions of redundant farm buildings which, of course, are unlikely to be wholly isolated by their nature. Isolated also is a reflection of where something is more remote and away from other places, buildings and the like. It is not considered that the proposed dwellings would be 'isolated' in the dictionary sense; it is the issue of the harm that would be caused were the proposal to be permitted.

- 3.11 As set out above, the application site is located within the open countryside where the Core Strategy restricts development unless it falls within specific criteria. Policies DM15 and DM16 seek to protect the countryside and landscape character. Their objectives are consistent with the NPPF and both policies are applicable to the assessment of the application.
- 3.12 The NPPF is clear in its guidance however, that the Framework does not change the statutory status of the development plan as the starting point for decision making. In this case, the proposal is contrary to the Development Plan. The report will, however, consider whether there are material considerations which indicate that permission should be granted, contrary to the development plan.
- 3.13 As such, the test for this application is whether or not the proposal would give rise to adverse impacts that would significantly and demonstrably outweigh the benefits. The report considers, in the context of the NPPF and the tilted balance in particular, whether any other material considerations exist which would justify granting planning permission contrary to the Development Plan.

#### Impact on the Character and Appearance of the Locality

- 3.14 The application site falls within the Character Area 8 of the Dover District Landscape Character Assessment: Staple Farmlands. The key characteristics of the area are identified as follows:
- Gently undulating land
  - Open views
  - Little tree cover and open arable land
  - Insignificant enclosure
  - Native hedgerows
  - Mixed buildings; minor roads; footpath network
- 3.15 Essentially, the pattern and rhythm of the landscape is of open arable nature with fields and farmland characterising the area.
- 3.16 Policy DM15 seeks to protect the countryside. Development will only be permitted if it is in accordance with allocations made in the development plan, is justified by the needs of agriculture, or justified by a need to sustain the rural economy or a rural community. In addition it must be shown that development cannot be accommodated elsewhere and does not result in the loss of ecological habitats. This application is not submitted on the basis of agricultural need; it is not in accordance with any allocations and is not required to sustain a rural economy or rural community. Notwithstanding letters of support stated it will provide 'affordable housing', it has not been submitted as a rural exception site. Therefore the proposal is considered not to be in accordance with policy DM15.
- 3.17 Policy DM16 states that development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in the development plan, incorporating any necessary mitigation; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate impacts to an acceptable level.
- 3.18 The relevant landscape character assessment recognises the open character of the area. Nearby dwellings are sporadic and of low density. Outside of the immediate buildings in the locality is open countryside with far reaching views

bordering either side of Buckland Road as it exits the village. This proposal would alter the grain of development at the edge of this village and provide a denser edge than existing.

- 3.19 The appeal site itself is largely undeveloped mown grass enclosed by predominantly hedgerows. Its undeveloped nature (save for a low impact stable block and small hen house), contributes to the wider open countryside.
- 3.20 Notwithstanding the lack of detail submitted with the application, it is apparent from a site visit that the new dwellings, if permitted, would be visible from the junction of Buckland Lane and The Street; the elevated level of the site would exacerbate this impact further. Whilst there is currently boundary hedging around the site, this will need to be managed and will not in itself screen the development. Whilst the design of the dwellings has been reserved for future consideration, the proposal, by virtue of creating dwellings together with surfaced accesses, parking areas, enclosures and domestic paraphernalia would introduce an urbanising development in this location. The development would erode the rural character and appearance of this location.
- 3.21 Accordingly, the development is considered to be unacceptable in terms of its impact on the character and its effect on the countryside. It is contrary to Core Strategy policies and the guidance contained in the NPPF.

#### Highways

- 3.22 The proposed development is for four additional dwellings accessed from an unclassified road on an existing, but to be improved, access. As such, it falls outside of the KCC highways consultation protocol.
- 3.23 Extensive objections have been received that the existing access is already a highway safety issue and to intensify the use, even if 'enhanced', would simply exacerbate the problem and that the intensified use would potentially cause even greater conflict with farm traffic and other road users.
- 3.24 The likely volume of traffic generation from the four dwellings would not be likely to cause a severe impact on the highway network. There is a short distance from the site to the junction with The Street where the footway begins; it is not considered that this short distance would justify a reason for refusal on highway grounds. Accordingly, there is no objection to the proposal on highway safety or impact.

#### Impact on Ecology

- 3.25 Under the Natural Environment and Rural Communities Act (2006), "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity". In order to comply with this 'Biodiversity Duty', planning decisions must ensure that they adequately consider the potential ecological impacts of a proposed development.
- 3.26 The National Planning Policy Framework states that "the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible." Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System states that "It is essential that the

presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.”

- 3.27 The application was not accompanied by any ecological survey; however, having regard for Natural England Standing Advice, it is not considered that the site provides any habitat likely to be used by any protected species, save for breeding birds. Moreover, it has been commented by an objector that a pair of breeding turtle doves are present within the site, which are a UK Priority Species under Section 41 of the Natural Environment and Rural Communities Act 2006. This Act places a duty on Local Planning Authorities to have regard for to the purpose of conserving biodiversity, under Section 40.
- 3.28 The application site is around 600m from an RSPB supported site and records of Turtle Dove. Whilst there are no verified records of Turtle Dove on the application site itself, the habitats on the site (boundary hedging) are consistent with the habitat utilised by Turtle Dove. Vegetation on site is contained on the boundaries and within the site is a well maintained lawn. This application is in outline and, as such, the precise location, form and scale of development is not known. However, it is concluded that the boundary vegetation could be retained by way of condition, whilst disturbance to birds could be reasonably avoided through directing where dwellings could be located and the scale and form they would take. It is noted that the site is, at present, in active use and that this use is not restricted. Adopting a precautionary approach, and attaching significant weight due to the overall level of decline in the species, it is considered that the application could be carried out in a manner which protects and minimises impacts on, and halt the overall decline in, biodiversity, provided stringent conditions are attached to any grant of permission (comprising restricting the development to areas away from vegetation and retention and enhancement of existing vegetation). It is therefore considered that, having regard for the Councils duty under the Section 41 of the Natural Environment and Rural Communities Act 2006, the development would not be contrary to the National Planning Policy Framework, subject to conditions.
- 3.29 In light of the above considerations, there are no objections on the grounds of ecology.

The Conservation of Habitats and Species Regulations 2017, Regulation 63: Appropriate Assessment

- 3.30 All impacts of the development have been considered and assessed. It is concluded that the only aspect of the development that causes uncertainty regarding the likely significant effects on a European Site is the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 3.31 Detailed surveys at Sandwich Bay and Pegwell Bay were carried out in 2011, 2012 and 2018. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within Dover district, when considered in combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.

- 3.32 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 3.33 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the sites.
- 3.34 Given the limited scale of the development proposed by this application, a contribution towards the Councils Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy will not be required as the costs of administration would negate the benefit of collecting a contribution. However, the development would still be mitigated by the Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy as the Council will draw on existing resources to fully implement the agreed Strategy.
- 3.35 Having had regard to the proposed mitigation measures, it is considered that the proposal would not have a likely significant adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites. The mitigation measures (which were agreed following receipt of ecological advice and in consultation with Natural England) will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

#### Residential Amenity

- 3.36 The closest dwelling to the application site is the thatched listed property opposite. As this is an outline application only, it may be possible to design a layout to respect the privacy of the existing properties close to the site. This would be a reserved matter issue. It is therefore considered that there would be objection with regard to overlooking/privacy at the principle stage.

#### Other Material Considerations

- 3.37 In support of the application, reference has been made to an appeal decision at another site in the nearby Hamlet of Barnsole (Land at Barnsole Road). In respect of this case, the main issues identified by the inspector were the effect of the proposal on the character and appearance of the area – not dissimilar to this case. Barnsole is linked to Staple by two main roads and was described by the inspector as forming a single community with Staple. However, at the time of the appeal decision the inspector gave weight to the bus service, which is no longer in existence, reasoning that this added to the sustainability of the location. The appeal proposal was considered by the Inspector to relate to its setting and have limited impact on the character and appearance of the locality. In this instance the site is elevated, on a corner plot and more exposed when approaching the site from the south. The proposed development would alter the character of this approach to Staple and add to the density immediately adjacent to the open countryside. It is therefore considered that the appeal decision is not a like for like assessment and does not carry significant weight in the determination of the current proposal.

#### Sustainability

- 3.38 Staple is no longer served by a local bus service and as such, public transport is not considered a viable alternative to private transport. As such, there would be no alternative but to travel by private car.
- 3.39 It is therefore considered that the proposal would conflict with policy DM11.

#### **4. Conclusion/Planning Balance**

- 4.1 The proposal is for outline planning permission for four detached dwellings of unidentified size, scale, design and mass. The site is in an elevated position at the edge of the village boundary. The boundary was purposely drawn to exclude the substantial garden from falling within the village boundary. It could reasonably be concluded that this was a conscious decision to identify the end of the acceptable 'built development' and the start of the more open rural character of the area.
- 4.2 Even without indicative drawings, suggesting the extent of the potential built form of the development, the footprint and resulting scale of four detached dwellings will alter the character of this rural landscape.
- 4.3 It is not contended that the proposal is to be considered as a rural exception site under paragraph 77 of the NPPF. Nor has it been put forward as falling within paragraph 79 which allows new dwellings in the countryside under certain circumstances.
- 4.4 It is acknowledged that the categorisation of the settlement of Staple as a village means that, in principle, development of a suitable scale to reinforce its role as a provider of services to the local community may be acceptable – (albeit the application site is not within the village). However, due to the characteristics of the application site, the harm caused would outweigh the benefits of development in this location. The proposal is therefore contrary to policies DM1, DM11, DM15 and DM16 of the Dover District Core Strategy where new development outside of existing settlement boundaries is resisted and the highest level of protection is given to landscape protection.
- 4.5 In the absence of information to demonstrate to the contrary, it is considered that the proposal would cause harm to the rural character and appearance of the area.
- 4.6 Overall the development is inconsistent with the aims and objectives of the NPPF and Development Plan. The assessment of this report is that due to the siting of the proposal and the impact on the landscape and locality as a whole, the proposed development would cause significant harm to the character and appearance of the countryside for the reasons stated. There are no other material considerations that would weigh in favour of the development. Accordingly it is considered that this application is unacceptable, and as such it is recommended that planning permission be refused.

(g)

#### **Recommendation**

1. REFUSE PLANNING PERMISSION for the reasons given below:
  - 1) In the absence of information to demonstrate otherwise, the proposed development, if permitted, by virtue of its siting, would result in an incongruous, intrusive, and unsustainable form of development, bringing about significant harm to the character and appearance of the countryside. The

proposal would be highly visible within its rural setting. The proposal is therefore contrary to Policies DM1, DM11, DM15 and DM16 of the Dover Core Strategy and NPPF paragraph 79.

Case Officer

Amanda Marks