

- a) **DOV/18/000655 – Outline application for the erection of a detached dwelling (with all matters reserved)**

Site adjoining Plot 1, Anchorage & Collingwood House, Collingwood Road, St. Margaret's-at-Cliffe, CT15 6EZ

Reason for report – Number of contrary representations (10).

- b) **Summary of recommendation**

Refuse permission.

- c) **Planning policy and guidance**

Statute

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)

CP1 – Settlement hierarchy.

DM1 – Settlement boundaries.

DM11 – Location of development and managing travel demand.

DM15 – Protection of the countryside.

DM16 – Landscape character.

Saved Dover District Local Plan (2002) policies

None applicable.

National Planning Policy Framework (NPPF)(2012)

2. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet

the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

11. Plans and decisions should apply a presumption in favour of sustainable development...

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. 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.

78. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities...

79. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply...

- e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

124. The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this...

127. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

130. 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...

131. In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

172. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and

enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

177. The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

Other considerations

Kent Downs Area of Outstanding Natural Beauty (AONB)
AONB Management Plan 2014-2019

d) **Relevant planning history**

(Adjacent removed) DOV/15/00701 – Erection of two detached dwellings, creation of vehicular access and parking (existing dwellings to be demolished) – GRANTED.

e) **Consultee and third party responses**

DDC Ecology/Landscape – **Objects** – The proposal is for development of land immediately adjacent to what was plot 1 on the 15/00701 application is curious as it has reduced the curtilage of plot 1 according to the drawings submitted with 15/00701 and allocated that to a far more substantial area to the southwest. That being the case, this is not a proposal for development within an existing curtilage, but actually a proposal for new development within the AONB countryside.

If a proposal is to be considered within the context of NPPF Paragraph 55 [***now paragraph 79 under the 2018 NPPF***], it must be in detail, for otherwise how can a balance between exceptional quality and the protected landscape be achieved. The principle of permitting development here, through authorising an outline application, is an incorrect approach. This situation is not the same as in 15/00701 as there the application was dealing with replacement properties.

Notwithstanding that, it is considered that even were this an application in detail, the concern would be of urbanisation of the countryside within the AONB.

DDC Environmental Health – **Considered, no observations.**

KCC Archaeology – **No response.**

Southern Water – **No objection** – Subject to informative about sewer connection.

St Margaret's Parish Council – **Objects** – Development is within the AONB.

Public comments

Objections x 23, Support x 10

Objections

- Effect on trees, many of which have already been cut down.
- Traffic implications.
- Ecological concerns.
- These are new properties, not replacements.
- Site is in the AONB.
- Site is outside of settlement boundaries.
- Proposed dwelling of no benefit to local community.
- These would be intrusive on the local landscape.
- Potential for precedent.
- 'Existing' access has never previously existed.

Support

- This puts the site to good use.
- This would fall in line with new builds and complement them.
- No trees will be removed.
- Developer will protect remaining trees.
- Exciting addition to road in a redundant space.

f) **1. The site and the proposal**

The site

- 1.1. The site is located on the north western side of Collingwood Road in St Margaret's at Cliffe, at its junction with Beresford Road. The site is outside of settlement boundaries and is located in the Kent Downs AONB.
- 1.2. The site is covered by mature trees.
- 1.3. At this location, Collingwood Road is predominantly rural in character, with some sporadic residential development to the east and south west. Approximately 250 metres to the north/north east is the East Valley Farm farmyard.
- 1.4. 47 metres north east of the site is the redevelopment of the former Anchorage and Collingwood cottages, which was permitted under DOV/15/00701. The new dwellings are contemporary in character and appearance, and make use of the landform, where the site on which they are located drops away from road level.
- 1.5. Opposite the site to the south east is open countryside. Running behind the site to north west, in a south west/north east direction is The Chase, an undesignated

track used by walkers and horse riders. Beyond The Chase, the land falls to the north west into a dry valley, before rising to the unmade Nelson Park Road on the opposite side of the valley.

- 1.6. The site would be accessed from Beresford Road to the south west, although there is no current access.
- 1.7. Site dimensions are:
 - Depth – 38 metres.
 - Width – 50 metres.

Proposed development

- 1.8. The proposed development is outline in form with all matters reserved for the erection of a single dwelling. Access would be taken from Beresford Road to the south west, via a proposed access track.
- 1.9. Given that the proposal is outline with all matters reserved, no details of appearance, scale or layout have been submitted.
- 1.10. Immediately north east of the site is land subject to planning application DOV/18/00654 for a single dwelling, also owned by the applicant for this application.
- 1.11. Plans will be on display.

2. Main issues

- 2.1. The main issues to consider are:
 - Principle of development.
 - Environmental screening.
 - Appropriate assessment.
 - Design, street scene and rural amenity.
 - Residential amenity.
 - Highways and traffic impact.
 - Ecology and trees.
 - Other matters.

3. Assessment

Principle of development

- 3.1. The proposed development is located approximately 315 metres outside (north east) of settlement confines in a rural location, within the Kent Downs AONB. The nearest settlement boundary is that of the Nelson Park development at the south western end of Collingwood Road. Normally, therefore, under the terms of policies CP1 – Settlement hierarchy and DM1 – Settlement boundaries, the proposal would be unacceptable in principle.

3.2. Dover District Council cannot currently demonstrate a five year supply of deliverable housing land. In addition, by undertaking the process of updating its housing need evidence base (Strategic Housing Market Assessment (SHMA) 2017), the council has acknowledged that its policies relating to the supply of housing within the Core Strategy (CP2 and CP3) are out of date. Under the terms of the NPPF, each of these considerations would typically mean that the presumption in favour of sustainable development is engaged.

3.3. The presumption in favour of sustainable development, under paragraph 11 of the NPPF, states:

- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶ ; or*
 - ii. *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.*

3.4. In addition to the assessment of the application against the NPPF taken as a whole, footnote 6 under (d)(i) also notes:

The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.

The site is acknowledged as being located within the Kent Downs AONB, which in itself provides a very strong safeguard against development which might be assessed as being inappropriate in particular for aesthetic and character reasons.

3.5. The ruling of the Court of Justice of the European Union (CJEU) in the case of the People over Wind and Sweetman concluded that ecological mitigation measures could not be factored in at the habitat screening stage. This was the approach that the LPA had been using in relation to the assessment of whether residential developments would have a likely significant effect on the European sites at the Thanet Coast and Sandwich Bay. The correct approach has been determined to be that if a likely significant effect cannot be ruled out then an appropriate assessment must be undertaken, which will consider the effect of the development, or otherwise, on the European sites.

- 3.6. The consequence of this approach is that in reference to paragraph 177 of the 2018 NPPF, due to the need for an appropriate assessment to be undertaken, the presumption in favour of sustainable development does not apply.
- 3.7. In light of the above, it remains the position of the LPA that regardless of the position on the housing land supply calculation, and paragraph 177, DM1 does have some reduced weight following the update of the SHMA and this is acknowledged when determining applications in particular those outside of the adopted settlement boundaries. Each proposal must be assessed against the policies of the development plan as the starting point, factoring in any material consideration, including those within the NPPF.
- 3.8. Subject to the consideration of these elements below, the starting point remains that his proposal is considered to be unacceptable in principle.

Environmental screening

- 3.9. The proposed dwelling is located within the Kent Downs AONB. Therefore it is correct to screen the proposal in order to understand whether an environmental statement is required to accompany the proposal.
- 3.10. Assessed against The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the proposed development is not categorised as schedule 1 development. The development is categorised as an urban development project under schedule 2, 10(b), however, it does not exceed the thresholds of 150 dwellings, or 5 hectares. Therefore, the LPA does not consider that an environmental statement is required.

Appropriate assessment

- 3.11. As addressed above, the proposed development requires that an appropriate assessment be undertaken in relation to the potential effects of recreational pressure on the European sites at Thanet Coast and Sandwich Bay.
- 3.12. The following appropriate assessment has been undertaken on that basis.
- 3.13. *The Conservation of Habitats and Species Regulations 2017
Regulation 63: Appropriate Assessment*
- 3.14. *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.*
- 3.15. *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 an adverse effect on the integrity of the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.

- 3.16. *Following consultation with Natural England, the identified pathway for such an adverse 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.*
- 3.17. *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.*
- 3.18. *Given the limited scale of the development proposed by this application, a contribution towards the Council's 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.*
- 3.19. *Having had regard to the proposed mitigation measures, it is considered that the proposal would not have an 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 any harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.*

Design, street scene and rural amenity

- 3.20. Due to the proposed development being outline in form with all matters reserved, it is difficult to understand what the effects of the proposal might be in terms of how the street scene is affected, whether a design could be accommodated, and how this may or may not affect the rural amenity of the localised and wider area.
- 3.21. As noted, the site is located within the Kent Downs AONB, which is nationally designated for its landscape character, and under these terms, is equivalent in status to a national park.
- 3.22. Accordingly, putting aside the in-principle objection to the proposal, for a development otherwise to be acceptable, it would need to be able to demonstrate that no harm would result from its construction, or that any harm is capable of being effectively mitigated.
- 3.23. **Policy DM15** relates to the protection of the countryside. The policy states the following:

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.

3.24. The proposed development would result in the loss of countryside, therefore, assessment against the criteria of the policy is necessary. In addition, given that the development is outline in form with all matters reserved, this makes an accurate assessment of its effect on the countryside difficult. It is considered reasonable in these circumstances, particularly given the AONB designation of the site and surrounding area, and the urbanising form of development proposed, to adopt a precautionary approach and to take the position that harm cannot be ruled out.

3.25. The proposal does not accord with the criteria under (i), (ii) and (iv), it has not been shown to be required to sustain the rural economy or a rural community, so does not accord with criterion (iii); and no information has been submitted which demonstrates the ecological implications of the proposal meaning that it does not accord with (v).

3.26. **Policy DM16** relates to landscape character. The policy states the following:

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.*

3.27. As noted above, it is considered reasonable to take a precautionary approach and assess the proposal against the two criteria of the policy, regardless of the detailed elements of the scheme being unknown. The proposal is not in accordance with criterion (i) and due to the nature of the outline application, cannot be considered to meet the requirements of criterion (ii).

3.28. **Outstanding or innovative design.** Consideration has also been given to paragraph 79 of the NPPF regarding whether a dwelling in such a location can be justified on the basis of the design being of an exceptional quality, whether it is truly outstanding or innovative, and whether it would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. Given that the site is approximately 315 metres from the defined settlement boundary of the Nelson Park estate at St Margaret's at Cliffe and any dwelling

would be located in a cluster of existing dwellings, the proposal is not considered to be in an isolated location. Therefore, the strong justification offered by paragraph 79 is not considered to be relevant in this instance, however, a similar principle does apply at paragraph 131, directing that great weight should be given to outstanding or innovative designs, subject to considerations including how a proposal fits with the overall form and layout of its surroundings. As assessed with policies DM15 and DM16, and alluded to by the DDC Ecology and Landscape officer, the outline nature of the proposal makes such a consideration unfeasible, therefore leading to the conclusion that it cannot be justified under the terms of paragraph 131.

- 3.29. Accordingly, due to the nature of the application, and the prevailing policy position on the site, the proposal is not considered to be acceptable under the terms of policies DM15 and DM16, and given the direction under paragraph 172 of the NPPF which gives great weight to conserving/enhancing the AONB, is also considered to be contrary on that basis.

Residential amenity

- 3.30. Due to the proposal being an outline application, it is not possible to make an accurate analysis of any potential effects on residential amenity, however, it is likely given the size of the site and its context, that any reserved matters proposal could adequately design out any adverse effects.

Highways and traffic impact

- 3.31. The proposal does not contain any precise details of access, or details of design in relation to the provision of off-road parking. It is likely, however, given the relatively low traffic nature of the highways at this location, that were the development to proceed to reserved matters stage, these issues could be adequately addressed.

- 3.32. The proposed development is located 735 metres away from the nearest bus stop, which by itself is considered to be in excess of the distance that somebody would consider to be acceptable to walk to access public transport. In addition the route is only half-lit and provides a dedicated footpath for only half its distance. It is considered therefore that the development would likely be served predominantly by private motor vehicle and that alternative methods of travel for accessing day to day needs would be unlikely. This is contrary to the principles of sustainable development and in part undermines the basis for seeking to direct development to defined settlements. Accordingly, the proposal is contrary to the requirements of policy DM11.

- 3.33. In sustainability terms therefore, the highways impact of the proposal is considered to be unacceptable.

Ecology and trees

- 3.34. No ecology or trees information has been submitted with the proposal. Given the

robust in-principle objection to development at this location it was not considered appropriate or cost-effective to seek such information from the applicant. However, if the principle of the development was considered to be acceptable then such information would have been sought from the applicant due to the need to understand if protected species or habitats would be harmed by the development, or if any healthy tree specimens should be protected, particularly given the AONB status of the location.

Other matters

- 3.35. KCC Archaeology did not respond to the consultation on this application. However, given the response to DOV/18/00654, it would appear reasonable to conclude, if necessary, that any issues could be dealt with by condition.

Sustainability and conclusion

- 3.36. The proposed development is considered to be unacceptable.
- 3.37. The site is located in the AONB outside of settlement boundaries, where there is no justification for the proposal. The site is considered to be unacceptable in principle, and due to the need to undertake an appropriate assessment, the presumption in favour of sustainable development does not apply.
- 3.38. However, it is nevertheless considered prudent to assess the proposal against the three principles of sustainable development i.e. the economic role, the social role and the environmental role.
- 3.39. **Economic role.** It is considered that the development would provide a time limited economic benefit in terms of the construction contract. The development may also represent a longer term economic benefit to the area, if its residents were from outside of the district. This, however, would be limited in scale.
- 3.40. **Social role.** The development would likely represent a limited benefit to the area, if the eventual residents were not local, therefore, representing an increase in the local population, which would in a limited way, help to support the local community and any facilities.
- 3.41. **Environmental role.** The proposed development is considered to have the potential to result in significant harm in environmental terms. Were the proposal to go ahead, it would result in the loss of countryside and would most likely and in the absence of details to demonstrate to the contrary, result in undue harm to the AONB designated landscape. The applicant has not submitted supporting details relating to local ecology nor to the trees located on and around the site. In addition, the site is located 735 metres away from the nearest bus stop, along a route which for approximately half of the distance does not have a dedicated footpath or street lighting. Therefore, the likely reality is that the proposed development would be reliant on the private motor vehicle for travel, also representing a degree of environmental harm.

3.42. **Conclusion.** The proposed development, while potentially representing small benefits in terms of its economic and social aspects, is considered to have the potential to represent significant environmental harm, particularly where the proposal is not adequately supported in terms of information submitted. On this basis in addition to being contrary to the development plan, the proposal would not be sustainable in form, contrary to the objectives of the NPPF.

3.43. The recommendation is therefore to refuse permission.

g) **Recommendation**

- I. Planning permission be REFUSED, for the following reason: (1) The proposed development, if permitted, by virtue of its location outside of settlement boundaries in a countryside location within the nationally designated Kent Downs AONB, would result in an unsustainable form of urbanising development, an unjustified loss of countryside and harm to landscape character; and would give rise to an over reliance on the private motor car as the primary means of transport, contrary to Core Strategy policies CP1, DM1, DM11, DM15 and DM16 and the aims and objectives of the NPPF at paragraphs 2, 8, 11, 78, 124, 127, 130, 170, 172 and 177 in particular.
- II. That powers be delegated to the Head of Regeneration and Development to settle any reason for refusal in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case officer

Darren Bridgett