

a) DOV/18/00643 – Erection of a dwelling. Land on the West Side of, Moat Lane, Ash, CT3 2DG

Reason for report: Number of contrary views (28).

b) Summary of Recommendation

Planning permission be granted.

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.
- DM13 – Provision for parking should be a design led process based upon the characteristics of the site, the locality, the nature of the proposed development and its design objectives. Provision for non-residential development, and for residential cycle provision, should be informed by Kent County Council Guidance SPG4, or any successor. Provision for residential development should be informed by the guidance in the Table for Residential Parking.
- 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 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the application are out of date, then also granting consent.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.
- Chapter sixteen of the NPPF seeks to conserve and enhance the historic environment.
- 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.'

The Kent Design Guide

This states that 'the restoration, modification or extension of any building requires a sympathetic approach and this is particularly the case with heritage areas including historic buildings and townscape. Even a seemingly minor alteration can be damaging to an individual building or group'.

Sections 66(1) and 72(1) of Planning (Listed Buildings and Conservation Area) Act 1990

Section 66(1) of the Act states that, 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or as the case may be, the Secretary of State shall have

special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.'

Section 72(1) states that, 'In the exercise, with respect to any building or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'

d) **Relevant Planning History**

DOV/95/00644 - Erection of one dwelling. Refused. Dismissed appeal.

e) **Consultee and Third Party Responses**

Ash Parish Council

- It is outside the settlement confines of the village of Ash.
- Overdevelopment of the site due to size building
- Design of the building incompatible with the conservation area and the street scene
- The narrowness of the lane will cause safety and access issues for traffic and is unsuitable for further development.

Reconsultation: Ash Parish Council response received on 25 October 2018

- Design of the building incompatible with the conservation area and the street scene
- Access from Coombe Lane is not possible for large vehicles
- The building should be conditioned to finished in brick.

County Archaeologist

No objection subject to a watching brief condition.

Southern Water

No objection however an informative has been recommended to be attached to the permission.

Heritage Officer

- The layby is uncharacteristic of the rural lane.
- The building would dominate views from the rear of the listed buildings and the open rural character of the site.

Public Representations:

Twenty seven (28) representations received objecting to the planning application and raising the following relevant planning matters:

- out of proportion.
- set a precedent
- an architectural monstrosity devoid of imagination, creativity and intelligence
- detrimental to the local environment
- negative impact on local community
- overshadowing
- too large and not in keeping with the existing properties
- the lane has limited sight lines and blind bends
- lane is used by cyclists, horse riders and dog walkers

- increased traffic on Moat Lane
- detract from the setting of a Conservation Area
- unsightly and overpowering
- harm to TPO trees adjacent to the site
- increased noise and disturbance

Two (2) representations received supporting the planning application and making the following comments:

- not cause strain to the existing sewer system
- it is not in a Conservation Area
- the application has a purposefully designed a lay-by in the road to help with traffic
- nice house instead of an overgrown piece of land

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

1.1 The application relates to a triangular parcel of land sandwiched between Holly House to the west and Three Chimneys to the south. The site appears to have recently been cleared off vegetation and is relatively flat. The application site lies on the smooth bend of Moat Lane and abuts the southwest edge of the road. For the purposes of planning, it lies outside the confines of Ash (defined as a local centre in the policy CP1 of the Core Strategy) and within the countryside. The application site has an existing unmade (informal) access off Moat Lane. Opposite the application site across Moat Lane to the northeast, there is a row of listed terraced properties which back onto Moat Lane and front The Street. To the southwest of the site is the open countryside. To the southeast along Moat Lane lie farmsteads including Moatwell and Moat Farmhouse.

1.2 The proposal seeks full planning permission for the erection of a two storey 4 bedrooled detached dwelling. The dwelling would have a hipped roof. The dwelling would be 7.2m in height, 11.2m in width and 8.5m in depth. It would have timber fenestration and riven style slate roof. Two offstreet car parking spaces have been proposed to the western edge of the dwelling. The western and southern boundaries of the application site would have 1.8m high close boarded wooden fence together with some vegetation along the boundaries.

1.3 Concerns were raised regarding the orientation, external finish of the building, and the layby proposed. It was considered that the proposed dwelling, by virtue of its overall scale and proximity to the lane, would result in an undesirable impact on the listed buildings backing onto Moat Lane whilst the proposed layby would detract from the modest character of the rural lane. With a view to mitigate the above concerns, following recommendations were made:

- The detailing of the dwelling including the proposed through colour render was recommended to be amended to exposed brickwork.
- The semi-open front porch was recommended to be simplified.
- The proposed layby was recommended to be removed and instead, a denser hedge was recommended to be proposed along the front boundary of the site.
- Finally, the orientation of the dwelling was recommended to be orientated east-west such that the proposed dwelling's ornate elevation did not face the rear elevations of the listed buildings but overlooked Moat Lane to the southeast. Also, the chimney was recommended to be moved to the south side elevation. Essentially, the dwelling would be sited at an angle with the

lane with its simpler side elevation facing the rear elevations of the listed buildings such that it would be subservient rather than compete.

The applicant's agent was forthcoming and the amended drawings were received on 01 October 2018.

- 1.3 The dwelling would sit at a distance of 10.7m from Holly House (to the west) and 16m from Three Chimneys (to the southeast).

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. DM1 states that 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. The application site lies immediately adjoining the settlement confines of Ash which is defined as the Local Centre within the Core Strategy. Consequently, the development is contrary to the development plan.
- 2.4 At the present time the Council is unable to demonstrate a 5 year housing land supply. 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. However, some weight should still be applied to Policies CP1 and 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.
- 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.

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 Regard should also be had to policy DM16 of the Core Strategy which 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.
- 2.8 The road (Moat Lane) serving the site is fronted by residential properties. Whilst the proposed dwelling would be visible from the countryside to the southwest, it would be seen against the backdrop of the existing terraced properties fronting and backing onto Moat Lane. Furthermore, an indicative landscaping scheme has been submitted with the application which makes it apparent that there will be vegetation along the southern and western site boundaries which will effectively screen the proposed dwelling to some extent in views from the southwest. This could be achieved by imposing a suitably worded condition with a view to secure a high quality landscaping scheme for the site. For the foregoing reasons, it is not considered that the proposed development would cause harm to the character and appearance of the wider landscape. As such, the proposal would not be contrary to policies DM15 and DM16 of the Core Strategy.
- 2.9 The submitted amended plans demonstrate that the proposed dwelling would be sited at an angle with Moat Lane and maintain an appropriate setback from the road frontage (approximately 4.5m to 12.5m) and would have a larger footprint as compared to the immediately adjoining properties. A native hedge is proposed along the front boundary of the site which is considered to add value to the semi-rural character of the lane.
- 2.10 The street scene of Moat Lane predominately comprises of two storey detached and terraced dwellinghouses closely packed together. It is acknowledged that the properties do not conform to a particular architectural style with each property differing from the next. A mix of exterior finishes to the properties in the immediate area are noted which include plain render, painted brick, exposed brick work and timber weatherboarding. Also, the properties in the area incorporate a variety of fenestration materials although timber is prevalent. It is also noted that some properties are setback from Moat Lane whilst some (towards northwest) sit on the edge of Moat Lane. As such, there is no strong building line dictating the alignment of the dwellings. The amended location of the dwelling has been designed so that the visual relationship between the listed buildings to the north and the countryside would be maintained. Following the receipt of the amended drawings, a discussion has been had with the Heritage Officer regarding the amended scheme. The Heritage Officer was satisfied with the amendments and did not raise any further concerns.
- 2.11 The proposed dwelling would be finished in brick with timber fenestration and riven style slate roof. Whilst the proposed dwelling would be readily visible in Moat Lane, having regard for the siting, scale, separation distance and detailed design of the proposed dwelling, it is considered that the proposal would respond to the prevailing character of the existing buildings and the pattern of development within the locality.

To ensure the retention of the existing character of the lane, a suitably worded condition could be attached to remove the permitted developments rights including Classes A, B, D and E.

- 2.12 In conclusion, it is not considered that the proposal would cause harm to the character and appearance of the street scene, the Conservation Area or the setting of listed buildings across Moat Lane to the northeast. Therefore, the proposal is considered to be in accordance with the Sections 66(1) and 72(1) of Planning (Listing Buildings and Conservation Areas) Act 1990. As far as the NPPF is concerned, the proposal is considered to be a sympathetic form of development which would not result in any harm to the heritage asset. Accordingly, the impact of the development would cause no harm to the significance of the heritage assets or their settings.

Impact on Neighbours

- 2.13 The finished dwelling would lie at a distance of approximately 10.7m from Holly House (to the west) and 16m from Three Chimneys (to the southeast). Having regard for the substantial separation distance, it is not considered that the proposed dwelling would cause a sense of enclosure, loss of light or overshadowing. Furthermore, no first floor level windows have been proposed to the elevations facing the neighbouring properties on either side. Therefore, no harm from overlooking would occur from the proposal. To mitigate any potential for overlooking in the future, a suitably worded condition could be imposed to remove the permitted development rights for the insertion of any new openings within the south (side) elevation.

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 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. However, the harm caused by the proposal in this respect is, at worst, negligible. The development would also be located such that it would support the facilities and services in Ash, in accordance with the NPPF.
- 2.16 The development would provide a new vehicular access onto the site from Moat Lane. The application site falls within the 30mph zone. Having regard for the geometry of the road and the location of the access, the visibility splays which could be achieved would comply with those recommended for roads of this type (approximately 43m x 2.4m x 43m).
- 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 two open car parking spaces within the site, meeting the needs generated by the occupiers of the dwelling.

No formal visitor parking is shown, although it would be relevant to note that there is onstreet parking along The Street (50m away from the site) to the north. Having regard for the above, the development is considered to provide sufficient car parking provision and would comply with policy DM13 of the Core Strategy.

- 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 Having regard for Natural England's Standing Advice, it is not considered that the site includes any features likely to provide habitat for protected or notable species.

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

- 2.20 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.
- 2.21 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.
- 2.22 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.
- 2.23 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.
- 2.24 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.

Archaeology

- 2.25 The application site lies within the historic village of Ash and is adjacent to a Roman road which runs from Canterbury to Richborough. Roman remains including cremations and evidence for occupation have been found a short distance to the west, close to a presumed junction on the Roman road network. Given the above

KCC Archaeology are of the view that there is a reasonable likelihood that the development will impact upon heritage assets of archaeological interest. Consequently it is considered that it would be reasonable to require an archaeological watching brief in this instance.

Drainage

- 2.26 Concerns have been raised by third parties regarding foul drainage provision. Southern Water have not raised any concerns in this respect and it is noted that the application is for one dwelling only. As such, it is not considered that the development would cause any material harm regarding increased risks of localised flooding. It is, however, considered that it would be proportionate to attach a condition in relation to a detailed scheme for the disposal of surface water.

Other material considerations

- 2.27 At present, the council is unable to demonstrate a five year supply of housing land. As such, it is considered that the Councils relevant policies for the supply of housing are out of date.
- 2.28 NPPF states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. Therefore, the assessment of sustainability can be separated into three dimensions: social, economic and environmental.
- 2.29 The proposed development would provide a short term and very modest economic benefit, by providing employment during the construction phase.
- 2.30 With regards to the social role, it is considered that the proposal would result in the creation of a high quality environment together with providing a family home in the village (where the Council cannot demonstrate a 5 year housing land supply).
- 2.31 Turning to the environmental role, by virtue of its siting and detailed design, it is not considered that the proposal would result in a localised urbanising effect to the rural character of the area and equally no wider landscape impact is envisaged from the proposal. The application site abuts the settlement confines of Ash and has fairly good access to the public transport and facilities and services of the Local Centre 'Ash' such that it would be likely to provide additional support for those facilities and services. Therefore, it would be in keeping with the sustainable travel objective of the NPPF.
- 2.32 In conclusion, taking the above facts in the round, it is considered that the proposed dwelling would lie in a sustainable location and would not result in any adverse impacts. It is concluded, therefore, that the material considerations of this case indicate that permission should be granted contrary to the development plan.

3.0 Conclusion

- 3.1 It is concluded that no significant harm would arise in respect of the character and appearance of the area and the proposal would therefore comply with the aims and objectives of the Framework, that require, amongst other things, planning to take account of the different roles and character of different areas and to recognise the intrinsic beauty of the countryside. Furthermore, in the absence of a five year supply of housing in the District and given the aim of the Framework to boost significantly

the supply of housing, the application is strongly supported by the NPPF. It is therefore recommended that planning permission be granted.

g) Recommendation

- I PERMISSION BE GRANTED subject to the following conditions: (i) Timescale of commencement of development, (ii) A list of approved plans (iii) details of the access prior to commencement (v) Highway conditions to include: provision and permanent retention of parking spaces prior to first occupation; provision and retention of cycle parking facilities prior to first occupation; measures to prevent the discharge of surface water; Use of a bound surface for the first 5 metres of the access from the edge of the highway; Completion and maintenance of the access; Gradient of the access to be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter; Provision and maintenance of 43 metres x 2.4 metres x 43 metres visibility splays at the access with no obstructions over 1 metre above carriageway level within the splays, prior to use of the site commencing (vi) Samples of materials (vii) Soft and hard landscaping details (viii) Details of surface water disposal (ix) Archaeological watching brief (x) removal of PD rights (Classes A, B and E) and boundary treatments (xi) restricting PD rights for the insertion of new windows to the south side elevation. (xii) bin storage details. (xiii) submission of window details (cills and headers) (xiv) retention of window reveals.
- 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 the Planning Committee.

Case Officer
Benazir Kachchhi