

a) **DOV/18/00915 - Erection of a detached dwelling, garage and associated parking - Land adjacent to Westfields, Hangman's Lane, Ringwould, Deal**

Reason for report: **Number** 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. Ringwould 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.
- CP3 - Of the 14,000 houses identified by the plan, 1,200 (around 6%) is identified for the rural area (i.e the areas other than Dover, Deal, Sandwich and Aylesham).
- 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 (DDL P)

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**

None.

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

Ringwould with Kingsdown Parish Council: No comment

DDC Principal Ecologist: - No comment

DDC Arboricultural Officer – only one Ash tree on the site remains from a no. of trees that were part of a TPO, however the tree has been given consent to be felled due to its decayed state.

Environmental Health: - No objection, however, in the event that planning permission is granted then conditions are recommended with regard to contamination and the submission of a Construction Management Plan.

KCC Archaeology: 'The proposed development site lies within an area of general archaeological potential, lying within a downland landscape that is generally rich in archaeological remains. Crop and soil marks demonstrate the presence of archaeological remains around the village of Ringwould, including ring-ditches (probably representing the plough-flattened remains of Prehistoric burial mounds), as well as trackways and enclosures. Chance finds from the fields around the proposed development site include coins of Iron Age and Roman-British date.

As such the proposed development may affect remains of archaeological interest. I would therefore suggest that provision be made in any forthcoming planning consent for a programme of archaeological work.' Condition recommended.

KCC PRoW: Public Right of Way ER17A passes partly along the access to the proposed site as shown on the attached extract of the Network Map of Kent. No

objections are raised to the proposal however, a number of informatives are recommended.

Southern Water: 'The applicant is advised to consult the Environment Agency directly regarding the use of a cess pit. The owner of the premises will need to empty and maintain the cess pit to ensure its long term effectiveness.

Southern Water would not support the proposals for septic tank or private treatment plant in the presence of public foul sewerage network in the close vicinity of the development site.

It may be possible for the foul flows from the proposed development to be connected to a nearby public sewer. Southern Water. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.'

Public Representations: 2 letters of objection and 19 letters of support.

The reasons for objection are summarised as follows:

- The land is outside the settlement confines and to grant permission would set a precedent.

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

- A wonderful asset to the village and a need for this type of property
- The land is vacant, overgrown and has the appearance of a dumping ground/an eyesore
- The proposal would tidy up the area and be an improvement
- There are other houses in the surrounding area
- Perfect spot to build as it is enclosed with trees and vulnerable to fly tipping
- With landscaping there will be no impact
- No logical reason to refuse – the area will be kept clean and maintained
- A new family home in this location will add and enhance village life
- The wild meadow is a brilliant idea as is the sustainable construction methods
- Additional traffic would be minimal and an extra dwelling would enable local services to continue

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

The Site

1.1 The application site is approximately 0.15ha in size and is situated in the Parish of Ringwould. The site is located to the south east of Hangmans Lane which is located to the south of the village of Ringwould. Two-thirds of the site was historically part of the residential curtilage belonging to the property Westfields which is located to the south of the site; the rear third is shown as wooded, possibly orchard land historically. The site is currently fenced off by Heras fencing and is surrounded on three sides by mature trees– there is a TPO on the site.

1.2 The site is on land that is level and maintained in a tidy mowed fashion. The site does not fall within any specific designation, although it is identified as being within groundwater protection zones 2 & 3. It is stated that the site is

independently served by mains water and electricity supply – installed when the previous owner used the site as a private campsite.

- 1.3 Hangmans Lane is a no through road and located to the west of the A258 which runs from Dover to Deal. There is a public right of way to the north west of the site which runs at a 45 degree angle away from the site. The nearest settlement to the site, Ringwould, has a public house 'The Five Bells' which offers accommodation and a range of dining options. There is also a Church in the village and a village hall located to the east of the village, but otherwise amenities are limited. The nearest Primary School is located in Kingsdown around 2km away. Deal is classed as a District Centre and located 6km in a northerly direction.

### The Proposal

- 1.4 The application seeks full planning permission for the erection of one 5 bed detached dwelling. The suggestion is that sustainable construction techniques will be used where possible, such as solar panels or a ground source heat pump. The application has been accompanied by the following supporting documents:

- Design & Access Statement
- Tree Survey
- Preliminary Ecological Assessment
- Block plans & elevational plans

## **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 ecology
- Residential amenity
- Other material considerations

### **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 Under Policy CP1 of the Core Strategy, Ringwould 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 Ringwould. 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.
- 3.6 Relevant policies in the development plan can be out-of-date for reasons other than lack of 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.
- 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 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 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 dwelling 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. Consequently, planning law requires that permission be refused unless considerations indicate otherwise, whilst a 'flat balance' will be applied for the purposes of assessing the NPPF.

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

- 3.13 The application site falls within the Character Area 9: Eastry Arable and Woodland Clumps of the Dover District Landscape Character Assessment. The key characteristics of the area are identified as follows:

- Gentle ridge and valley topography of the Downs
- Small settlements enclosed
- Orchards and vineyards
- Poplar shelter belts
- Arable land
- Rectangular fields follow northeast southwest direction
- Native hedgerows and isolated trees
- Strong seasonal variation
- Mixed building types
- Light settlement
- Minor roads
- Footpath network

- 3.14 Essentially, the pattern and rhythm of the landscape is of open arable nature with fields and farmland characterising the area.

- 3.15 Policy DM15 seeks to protect the countryside. Development which results in the loss of, or adversely affects the character and appearance of the countryside 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. Therefore the proposal is considered not to be in accordance with policy DM15.

- 3.16 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.

- 3.17 The relevant landscape character assessment recognises the light settlement nature of the area. In addition to the neighbouring property Westfields, buildings to the south west are restricted to those relating to the nursery. Nearby dwellings are sporadic and of low density. This proposal would add one additional dwelling and increase the hard landscape in the locality. It will have a local landscape impact altering the intrinsic character of the countryside in this location.

- 3.18 The new dwelling, if permitted, would be more visible in the street view from Hangmans Lane than the current Westfields and Ringwold Nursery which are less prominent. The Byway which is on the opposite side of Hangmans Lane affords views through the vegetation and the additional dwelling will increase the amount of built development in this locality. The proposal, by virtue of the new dwelling together with surfaced access, parking area/car barn, enclosures and domestic paraphernalia would introduce an urbanising development in this location. The development would erode the rural character and appearance of this location. Whilst the development would adversely affect the character and appearance of the countryside, contrary to Policy DM15, it is not considered that the development would cause significant harm to the wider character of the landscape. Therefore, on balance, it is not considered that the development would be contrary to Policy DM16.
- 3.19 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.
- 3.20 The application makes reference to the tilted balance in paragraph 14 of the NPPF; however this has now been superseded by the publication of the 2018 NPPF. The applicant's agent has since acknowledged this with some updated comments in support of the application. The case that planning permission should be granted in order to put the site to use and limit the likelihood of a deterioration of the condition of the site is not a sufficient reason in itself to grant permission. A great number of supporting comments welcome the proposal as a way of tidying up the site and tackling issues such as fly-tipping. It is stated in many letters that the site is an eyesore. The site is not described in this manner in the supporting documents, indeed, it is stated that the site is kept in good order. Furthermore, from a site inspection there was no evidence of fly tipping and the site is not considered to be a visual detractor in the landscape which requires remediation.

#### Highways

- 3.21 Notwithstanding the concerns regarding the sustainability of the site location (which would mean the occupants of the dwelling would be dependent upon the car, discussed below), it is not considered that the proposal would cause severe harm to the highway network. The additional vehicle movements are not deemed to give rise to any significant highway safety concerns or harm to the free flow of traffic in this location.
- 3.22 The development would provide facilities for the parking and turning of 3 cars, together with cycle parking, in accordance with the requirements of Policy DM13.

#### Impact on Ecology

- 3.23 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.

- 3.24 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.”
- 3.25 The application incorporated an ecological assessment; this was not a formal Phase 1 study. It was concluded that due to the kept nature of the land it was unlikely to support species such as reptile. No evidence was found of badgers or bats. A wildflower meadow is proposed as part of the scheme which would be an ecological gain.
- 3.26 In light of the above considerations and having regard for Natural England Standing Advice, there are no objections on the grounds of ecology.

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

- 3.27 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.
- 3.28 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.
- 3.29 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.
- 3.30 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.
- 3.31 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.

- 3.32 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

- 3.33 The closest dwelling to the application site is Westfields. The new dwelling has been designed with only one first floor side window obscure glazed to respect privacy. The proposed dwelling would be over 12 m from the flank wall of Westfields and over 7m to the common side boundary. The proposed dwelling would have a similar building line to Westfields at the front, would not be as wide as Westfields, but would be deeper extending further into the site. Given the relationship between the existing and proposed dwellings, there would no loss of light from the proposed dwelling to Westfields. It is therefore considered that there would be objection with regard to impact on residential amenity.

#### Sustainability

- 3.34 There are limited local amenities (pub 530m away by foot, Church 480m away by foot and village hall 710m away by foot), the nearest bus stop is around 630m away by foot. The nearest mainline station is in Walmer, around 3km away and would need to be accessed by bus. Consequently, the proposed location would result in dependency on the private car.
- 3.35 The site is not in a desirable location for new development and would not encourage use of public transport. It is therefore considered that the proposal would conflict with policy DM11.

#### Planning Balance/Conclusion

- 3.36 The proposal is contrary to policies DM1, DM11, & DM15 of the Dover District Core Strategy where new development outside of existing settlement boundaries is resisted and protection is given to protecting the intrinsic character of the countryside.
- 3.37 The proposal is not 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.
- 3.38 It is acknowledged that the categorisation of the settlement of Ringwould as a village means that, in principle, development within the confines of Ringwould 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 limited benefits of development.
- 3.39 It is therefore considered that the proposal would cause harm to the rural character and appearance of the area.

3.40 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 location and scale of the proposal, the proposed development would cause harm to the character and appearance of the countryside and comprises an unsustainable form of development. 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:

The proposed development, if permitted, by virtue of its location and scale, would result in an unsustainable form of development, which would fail to limit the need to travel or offer genuine choice of transport modes and cause 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 and DM15 of the Dover Core Strategy and NPPF Paragraphs 102, 103, 110 127 and 170.

Case Officer

Amanda Marks

