

a) **DOV/20/01200 – Erection of four semi-detached dwellings - Land adjoining Sunhollow, Gore Lane, Eastry**

Reason for report – Number of third party contrary responses (9).

b) **Summary of Recommendation**

Grant 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)

DM1 – Settlement boundaries.

DM11 – Location of development and managing travel demand.

DM13 – Parking provision.

DM15 – Protection of the countryside.

DM16 – Landscape character.

Saved Dover District Local Plan (2002) policies

None.

National Planning Policy Framework (NPPF)(2019)

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.

48. Local planning authorities may give weight to relevant policies in emerging plans according to:

- a. the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b. the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c. the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

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. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

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, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

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.

184. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

189. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

190. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development

affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

196. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

OTHER CONSIDERATIONS

Gore Court – Grade II listed building
Planning (Listed Buildings and Conservation Areas) Act 1990

Entry reads:
TR 35 NW EASTRY GORE LANE (west side)

6/130 Gore Court

EASTRY GORE LANE TR 35 NW (west side) 6/130 Gore House GV II

House. Early C 18 altered mid C19. Red brick, the main elevation rendered, with tile hanging to rear. Plain tiled roof. Two storeys on plinth with plat band, rusticated quoins and parapet to hipped roof with stacks to left and to right. Regular fenestration of 3 sashes on first floor and 2 on ground floor with central half-glazed door in pilastered and panelled surround with cornice.

Listing NGR: TR3062155102

d) **Relevant Planning History**

DOV/19/00912 – Erection of 4no. semi-detached dwellings, erection of fencing, formation of vehicular access and parking – REFUSED, APPEAL DISMISSED.

Adjacent Land

DOV/17/00267/B – Non-material minor amendment to revise the dwelling at plot 3 allowing an additional roof light in the rear roof plane, increased dimensions of windows and lowering of bottom sill height – GRANTED

DOV/17/00267/A – Non-material Minor Amendment to increased footprint of plot 3 to allow for additional room in roof space – GRANTED

DOV/17/00267 – Erection of 3no.detached dwellings, new vehicular and pedestrian accesses and associated car parking and landscaping – GRANTED

DOV/16/01226 – Erection of 3no. detached dwellings, creation of parking and new vehicular access – REFUSED

DOV/15/00874 – Erection of three detached dwellings, creation of three vehicular access points and parking – REFUSED

DOV/15/00363 – Erection of 4no. detached dwellings, carports and creation of new vehicular access – REFUSED

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

DDC Environmental Health – no objection subject to conditions for land contamination and construction environment management plan.

DDC Trees – no objection subject to conditions securing tree protection measures and an arboricultural method statement.

KCC Highways – outside of consultation protocol, but nevertheless recommends a two metre deep visibility strip along the Selson Lane site frontage.

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

Eastry Parish Council – objects – Eastry Parish Council object to this application on highways grounds. The addition of two new vehicle access on to Selson Lane will have a negative effect on road safety. Selson Lane is narrow and the sight lines are poor. The members feel the plans should be amended so that all proposed properties should use the existing access on Selson Lane.

Public comments (9x objections)

Objections

- Houses unnecessary, existing houses difficult to sell.
- Outside of village settlement boundary.
- Highway safety concerns.
- Wider concerns for the character of Eastry village.
- Overlooking to garden of Gore Court.
- Noise created by development.
- Heritage concerns.
- Land is not previously developed.
- Concern for infrastructure.
- Land ownership query

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

1.1. **The Site**

The site is located on the northern side of Selson Lane in Eastry. It is outside of, and removed from, the Eastry settlement boundary, albeit by a matter of metres. The site is located approximately 26 metres from the junction of Selson Lane and Gore Lane.

1.2. The site currently comprises a combination of earthen mounds, some turned over

land and some areas of grassy field. It has recently been used in connection with the construction activities for permitted application DOV/17/00267, for three dwellings fronting Gore Lane, but accessed from Selson Lane.

1.3. Neighbouring properties to the site include:

- North – Halstead
- East – Sunhollow (formerly known as Kandy), and three dwellings permitted under DOV/17/00267
- South – Gore Court (opposite side of Selson Lane)
- West – [and south] Wells Farm Cottage

1.4. Approximate site dimensions are:

- Depth – 50 metres
- Width – 27 metres

1.5. Proposed Development

The proposed development comprises two sets of semi-detached dwellings. The dwellings would be arranged with one block facing south west onto Selson Lane, with access taken directly from Selson Lane, and one block set to the rear (north east, but facing south east) with access taken from the existing driveway constructed under DOV/17/00267.

1.6. The front block would comprise a rural cottage character with a double pitched roof enabling a large internal area, while maintaining relatively modest proportions on the road facing frontage. The two dwellings in the front facing block would each have four bedrooms.

1.7. The rear block would be single storey and comprise a barn style aesthetic. These dwellings would each have three bedrooms.

1.8. Approximate dimensions of the dwellings are as follows:

Cottages

- Depth – 12.1 metres.
- Width – 14.9 metres.
- Ridge height – 7.75 metres.
- Eaves height – 5.3 metres to 5.5 metres.

Barn

- Depth – 9.1 metres to 14.5 metres.
- Width – 21.7 metres.
- Ridge height – 4.8 metres to 6.2 metres.
- Eaves height – 2.3 metres.

1.9. Plans will be on display.

2. Main Issues

2.1. The main issues to consider are:

- Principle of development, local plan review
- Application DOV/19/00912 – refusal and appeal

- Design, rural amenity and heritage impact
- Residential amenity
- Trees and ecology (including appropriate assessment)
- Highways and traffic impact
- Other

Assessment

2.2. Principle of Development

The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in such plans, unless material considerations indicate otherwise.

- 2.3. Policy DM1 states that development will not be permitted outside the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. Excepting where it incorporates the existing access driveway, which itself is located more than half outside of the settlement boundary, the site is outside of, and removed from, the Eastry settlement boundary by an approximate measurement of between 3.2 and 8.9 metres.
- 2.4. The site is located outside the defined settlement confines, is not supported by other development plan policies and is not ancillary to existing development or uses. Accordingly, development of the site would not normally be considered acceptable in principle.
- 2.5. In the 2018/2019 annual monitoring report (AMR) Dover District Council, as the local planning authority (LPA), can demonstrate a housing land supply in excess of five years (last noted as 5.3 years). However, by virtue of the age of the Core Strategy (2010), and information relating to the objectively assessed housing need having been updated, with a local plan review already progressing through regulation 18 stage, there are parts of the existing development plan which have the potential to be considered to be out of date. It is important when an application is being considered and where policies might potentially be out of date, that the relevant policies for determination are assessed against the NPPF (2019) to see the degree to which they might be in accordance, or otherwise.
- 2.6. The relevant policies in this circumstance are DM1, DM11, DM15 and DM16. Of these policies DM1, for the reasons considered above, and its relevance in terms of the presumption in favour of sustainable development, is considered to be the most out of date and as such a lower level of weight is applied to this policy.
- 2.7. Consideration, in basic terms, has already been made with regard to policy DM1, above.
- 2.8. Policy DM11 seeks to resist development outside the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. The site is located outside the settlement confines, although only just. In view of the distance of the site from the centre of the village and its amenities/facilities (approximately 475 metres by road), it is likely that the occupants of the development could walk to reach most of their necessary day to day facilities and services. Accordingly, while the strict interpretation of the policy

is that the development is outside of the settlement boundary, refusal based on this fact and its interpretation is unlikely to be satisfactory.

- 2.9. Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of its exceptions criteria. The degree to which the development affects the character or appearance of the countryside will be considered further in this report; however, the development does not meet all of the exceptions criteria set out in the policy.
- 2.10. Policy DM16 requires that applications which would harm the character of the landscape are only permitted, subject to meeting one of the necessary criteria relating either to land allocations/mitigation measures, or siting and/or design details. Further consideration against DM16 is made below.
- 2.11. For the above reasons, and as further expanded on in the report the development in principle, is contrary to Policies DM1 and DM15 of the Core Strategy, with more nuanced consideration made against policies DM11 and DM16, where it is not considered that these policies could be used to justify a refusal.
- 2.12. Whilst the development is contrary to Policies DM1 and DM15 and notwithstanding the status of the development plan, paragraph 11 of the NPPF (which is a material consideration) states that where the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year housing land supply or where the LPA has delivered less than 75% of the housing delivery test requirement over the previous three years) permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole (known as the presumption in favour of sustainable development, or 'tilted balance') or where specific policies in the NPPF indicate that development should be restricted.
- 2.13. As noted, the LPA is currently able to demonstrate a five-year supply of housing. The LPA has not met the housing delivery test, achieving 92%. Whilst this has been taken into account, in itself it does not trigger the presumption under paragraph 11, which is only engaged when housing delivery falls below 75%. It is, however, necessary to consider whether the "most important policies for determining the application" are out of date.
- 2.14. Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering dwellings at the necessary rate adopted in the 2010 Core Strategy i.e. 11 years ago. In accordance with the national standardised methodology for calculating the need for housing, the LPA must now deliver 629 dwellings per annum. As a matter of judgement, it is considered that Policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry less weight.
- 2.15. With regard to this particular application, the focus of the NPPF is to locate new housing development within suitably sustainable locations. Paragraphs 78 and 79 of the NPPF, seek to locate housing where it will enhance or maintain the vitality of rural communities and to avoid the development of isolated homes in the countryside. As such, the location of the proposed development would enable the vitality of the rural settlement to be supported.
- 2.16. Further consideration of policy DM11 is not considered necessary, due to this policy not being considered to be determinative of the proposal.

- 2.17. Policy DM15 resists the loss of countryside (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside as a blanket approach is more stringent an approach than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development. There is therefore some tension between this policy and the NPPF. In this instance, the appearance of the site within but also adjacent to the open countryside does afford some contribution to its intrinsic beauty and character. Further consideration of the site character and condition is made below, such that it is concluded that Policy DM15 should attract only moderate weight.
- 2.18. Further consideration of policy DM16 is not considered necessary, due to this policy not being considered to be determinative of the proposal.
- 2.19. It is considered that Policies DM1 and DM15 are to a greater or lesser extent in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues they seek to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives, in this context. Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date. Having considered the development plan in the round, it is considered that the 'presumption in favour of sustainable development' as set out in paragraph 11 of the NPPF should normally be engaged and as such the application should be assessed in the context of granting planning 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.

Local Plan Review

- 2.20. Further consideration is made in respect of the local plan review, which was recently out to its regulation 18 stage consultation (January to March 2021).
- 2.21. Site allocations policy 1 – non strategic housing allocations. Site EAS012 in this proposed policy allocates land to the west of the application site for 35 dwellings, subject to the resolution of site specific issues. In doing so, the Eastry settlement boundary would need to be redrawn and would likely encompass the application site, or render it an infill, such that the basis for considering proposals for its development would be altered, likely in favour of granting permission.
- 2.22. Regulation 18 consultation is the first stage of local plan consultation, and at this point in time, public comments are still being considered. Paragraph 48 of the NPPF directs that draft policies gain more weight the further through the process that the plan preparation process is. Therefore, the weight that can be afforded to policy SA1 is considered to be limited at this stage, nevertheless it is a material consideration.
- 2.23. Application DOV/19/00912 – Refusal and Appeal

Application DOV/19/00912, referenced above, bears similarities to the proposal as now considered. It was refused for the following reason:

The proposed development, if permitted, would by virtue of its siting, spatial configuration, design details and form, in an edge of settlement location outside of confines, result in an unjustified development which would appear incongruous both in terms of the street scene and existing contextual development, and in terms of its spatial arrangement, bringing about urbanisation and harm to visual and rural amenity. Furthermore, the siting and proposed plot boundaries would lead to the loss of trees and/or the pressure to remove retained trees, which currently serve an aesthetic screening function between the site and the open countryside, bringing about a hard and domesticated edge, and resulting in harm to the prevailing rural amenity of the location and its setting. All of this is contrary to the requirements of Dover Core Strategy policies DM1, DM15 and DM16, and to the aims and objectives of the NPPF at paragraphs 7, 8, 11, 124, 127, 130 and 170 in particular.

- 2.24. The proposal was subsequently dismissed at appeal, however the inspector did make a number of conclusions relating to the proposal and the location of the site:

*8. The proposal would not be for isolated homes in the countryside. It would be close to existing housing on the edge of an established settlement. Eastry has shops, a GP surgery, a primary school about 400m to the south of the site and has bus links to Deal and Sandwich where there are a greater range of services. The site is in a reasonably sustainable location and the proposal would help to maintain the vitality of Eastry. The residential curtilage to the dwelling Halstead, extends alongside the appeal site's northern boundary to align with the embankment and line of trees to the western side of the appeal site. This western boundary forms a hard edge to open fields and countryside beyond the appeal site and Halstead. The proposal would be contained within this edge. **My findings on the first main issue are that the site would be a suitable location for housing, but the details of the proposal need to be examined in relation to other considerations.** (My emphasis).*

14. The siting, massing and design of the proposed dwellings and their impact on the line of trees to the western side of the site would have a harmful impact on the appearance of the countryside and landscape character of the area. There would be conflict with Policies DM15 in that the proposal does not incorporate measures to reduce, as far as practicable, any harmful effects on countryside character. There would be conflict with Policy DM16 in that elements within the proposal have not been sited or designed to avoid or reduce the harm to mitigate the impacts to an acceptable level.

- 2.25. The location of the site therefore was considered by the inspector to be suitable for housing. The appeal was dismissed based on the details of the proposal, including design, means of enclosure, and the impact on the tree belt which separates the site from the countryside beyond i.e. the edge which the inspector refers to.

2.26. Design, Street Scene and Visual Amenity

The proposed development is in many ways similar to that which was proposed under DOV/19/00912. The proposal retains two semi-detached dwellings in a cottage form, facing Selson Lane, with two dwellings in a barn style semi-detached arrangement to the rear. The crown roof to which the inspector previously referred (in the appeal report but not quoted above) is no longer proposed, and the architect

has responded to design suggestions such that the cottages are considered to be acceptable.

- 2.27. The design influence for the barn style building does remain unclear and does retain a degree of incongruity, particularly seen in the built context of the three new dwellings facing Gore Lane, and Halstead to the north. The architect has, however, amended the proposal in order to reduce its impact on the open countryside to the west, including the removal of double height glazed apertures, replaced with more standardised sliding doors. To the eastern elevation, the scale of the roof has been reduced slightly, and more generally, materials have been amended to make the building appear as a more conventional dwelling/s. Accordingly, in terms of the appearance of the proposal itself, it is now more reminiscent in appearance and materials, although not necessarily scale, of Halstead (Gore Lane, north of the site), with a simpler form.
- 2.28. The nature of existing development on the western side of Gore Lane remains sporadic, however, the inspector's decision under the previous application considered this site suitable for residential development by virtue of its discrete character being separated from the surrounding open countryside.
- 2.29. It remains the case that the proposal would in absolute terms result in a loss of countryside. The proposal would regardless lead to development in depth and as such, bring a further urbanising effect and domestication at this location, where previously this has not been the case. The applicant has requested that landscaping be a matter of condition, while acknowledging that the western site boundary should be reinforced with additional planting. It is considered that this approach can bring an adequate solution, but for the benefit of clarity, a close boarded fence along this boundary is considered inappropriate. A post and wire fence in combination with native planting would provide the most appropriate solution.

2.30.

Policy DM15

Protection of the countryside

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.

2.31.

Policy DM16

Landscape character

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.

2.32. The inspector's consideration of the proposal under DOV/19/00912 is material to this application. While remaining contrary to policy DM15, the consideration of the proposal in respect of DM16 is more subjective, with a view of whether the proposal is considered to be harmful to the character of the landscape required as part of the assessment. Given the inspector's opinion regarding the suitability of this land for development, the amended design elements and the potential for a suitable landscaping solution, subject to an adequately worded condition, it is no longer considered that the proposal would harm the character of the landscape, and as such, the proposal is considered to be acceptable.

Heritage

2.33. Heritage considerations remain as per those under DOV/19/00912. Gore Court, at a distance of approximately 95 metres from the site, is the nearest heritage asset, a grade II listed building. Gore Court appears to form part of an enclosure around a former farmyard, where two other buildings are also listed. This is supported by historic maps and aerial photography. The setting of Gore Court certainly relates to the former farmyard, which has since been split into separate residential ownerships and to its garden which extends north east to Selson Lane, opposite the application site. While its garden has been integral to the court for some time, historic maps appear to suggest that this was not always the case. Where the garden meets Selson Lane, its boundary is formed by hedgerow, with a five bar gate providing access. All taken together, it is considered that the development of the site as proposed in form and scale would be consistent with the duty of the local planning authority to have special regard to the desirability of preserving the building or its setting, as required by the Planning (Listed Buildings and Conservation Areas) Act 1990.

2.34. Taken as a whole, while the proposal is not considered to cause harm to the heritage assets at and around Gore Court, harm is identified in terms of the design of the proposal and how it would impact on the ability of the council to protect the countryside, in accordance with adopted local and national policy.

2.35. Residential Amenity

Consideration of key impacts in terms of residential amenity remain more or less as they were under DOV/19/00912. Such considerations relate to the siting of the buildings and any overlooking that might arise as a result. The buildings are sited such that overshadowing impacts are unlikely to occur, and neither would overbearing impacts.

2.36. No overlooking would occur from the barn style building, which is laid out over a single, ground floor, storey. Therefore, the cottages form the key consideration. One window is proposed at first floor level facing south east towards the private amenity area at the rear of Sunhollow. The window serves a bathroom and could reasonably be expected to be conditioned to be obscure glazed and non-opening up to 1.7 metres above internal finished floor level. In the north east elevations at first floor level, facing towards the side and rear of the proposed barn building, there are four windows which serve bedrooms. These windows would preferably not overlook the neighbouring part of the development, however, given that this is

a new build proposal any impact would be on residents that would be able to make the choice whether or not to live there.

- 2.37. The residents at Gore Court remain concerned that the proposed cottage buildings overlook their rear garden. It is true that some views would be available into this area, however, the garden is approximately 90 metres from the house to the boundary with Selson Lane. As such, it is reasonable to expect that while some privacy may be lost at the far extent of the garden (closest to the application site), there would still be a sufficient area of the garden that would remain private (closest to Gore Court). It is also worth noting that where the garden meets Selson Lane, there are a number of views into it at ground level, meaning that it is not absolutely private in any case.
- 2.38. The proposed access arrangement does mean that there would be vehicles moving in close proximity to the rear of dwellings, however, this is already the case with the existing access drive, and as such, the addition of perhaps four more cars (using the barn style dwellings) would not result in undue harm arising.
- 2.39. The proposed development is therefore considered to be acceptable in terms of residential amenity.

Trees and Ecology (Including Appropriate Assessment)

Trees

- 2.40 Discussion with the DDC tree officer, confirms that the individual quality of the trees forming the western site boundary is average to low. Nevertheless these trees do make a contribution to the rural amenity at this location. Accordingly, the proposed tree protection plan is decompact soil depositions laid on the tree roots, resulting from the development of the three dwellings fronting Gore Lane, and to retain the trees, which are estimated mostly to have 20 to 40 years of life remaining.
- 2.41 The tree officer advises conditions for tree protection measures and an arboricultural method statement. Where there may be pressure on these trees resulting from residential occupation, a condition is proposed which will not allow works to these trees without written approval from the LPA, so that any impact can be properly considered.

Ecology

- 2.42 Over time the composition of the site has changed and has been repeatedly disturbed. When the land fronting Gore Lane was included in the Eastry settlement boundary, the site was partial woodland, albeit appearing to be mostly self-seeded. The site was subsequently cleared ahead of the first application to develop. The rear of the site was used for storing building materials in connection with the development fronting Gore Lane and spoil from that site was deposited over the tree roots at the rear of the current application site (forming the western site boundary). The centre of the site is now grassed over and acts as informal open space, while weeds have established along the boundaries (southern and western).
- 2.43 As such, it is considered that the site itself provides limited habitat at present, comprising the maintained grass to the area where the dwellings are proposed and trees along the north western boundary which are now to be retained. Having

regard for Natural England's Standing Advice, it is unlikely that the development would adversely affect protected or notable species. For these reasons, it is not considered that ecology is a constraint to this development. However, in accordance with the aim of the NPPF to incorporate biodiversity improvements in and around developments, it would be proportionate to request that details of ecological enhancements be submitted for approval and implemented prior to the first occupation of the development.

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

- 2.44 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.
- 2.45 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.
- 2.46 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.
- 2.47 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.
- 2.48 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.
- 2.49 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 the harmful effects on the designated site, caused by recreational activities from existing and new residents, will be effectively managed.

2.50 Highways and Traffic Impact

As with DOV/19/00912, concern has been raised about the highway safety implications of the proposal. Due to the scheme being for four dwellings accessing an unclassified road it is outside of the KCC Highways consultation protocol. However, given that there is an existing site access, and the proposal would likely result in four more cars using that access, it is unlikely that a severe impact would

arise on the functioning of the highway.

- 2.51 This leaves the individual driveway spaces that would access directly onto the highway from the cottages. It is considered that the proposal as submitted would likely be acceptable subject to the provision and maintenance of a two metre deep visibility strip along the Selson Lane frontage. Where front gardens would have been formed, and where the proposed driveways are of a reasonable size themselves, it is considered that this is likely achievable, particularly in such close proximity to a junction where traffic would typically be travelling slower than might otherwise be the case.
- 2.52 In this regard it is considered that the technical highways aspects of the proposal, including parking provision, are likely to be acceptable.
- 2.53 As noted above, policy DM11 seeks the refusal of development outside of settlement boundaries, which would result in travel movements, unless justified by other development plan policies. In this case, while the proposed development is outside of settlement boundaries in absolute terms, its proximity to that boundary means that refusal based on this fact and its interpretation under DM11 is unlikely to be satisfactory.

Other Matters

Infrastructure

- 2.54 Concern has been raised in relation to the ability of the local infrastructure to be able to accommodate this development. While this concern is acknowledged, development proposals of less than ten dwellings net do not typically attract funding requests from infrastructure providers, and it is the government position, at least in relation to affordable housing, not to seek contributions from smaller developments.

Land ownership

- 2.55 Some comments have suggested that the applicant has not been correct in declaring what land is and is not in their ownership. The onus in the application form is for the applicant to provide correct information. It is the case that applications can be made on land not owned, which would necessitate notice to be served. In this case, the local planning authority does not consider the proposal to be acceptable in principle so has not pursued this matter further.

3. Conclusion and Sustainability

- 3.1 Planning is required to deliver sustainable development, according with three individual roles – economic, social and environmental. Given that the proposal is outside of the settlement boundary, but the presumption in favour of sustainable development is nevertheless engaged, it is considered prudent to assess the proposal in light of these roles.
- 3.2 Economic - The proposed development would deliver a time limited economic benefit in terms of the construction contract. A smaller, but more long-term benefit would be the introduction, potentially, of new people to the area. This would depend on whether they were concealed households or new to the area.
- 3.3 Social - If the new residents were new to the area then this would represent a benefit in terms of creating or maintaining a critical mass of population to support

local facilities. The creation of new housing is also considered a social benefit.

- 3.4 Environmental - In environmental terms, while some of the development proposal is considered to represent acceptable design that has taken some cues from the immediate context, some effects of the proposal have the potential to be adverse. It is considered through the proper use of planning conditions that adverse effects, as discussed in this report, can be satisfactorily mitigated.
- 3.5 The proposed development is considered to be acceptable and the recommendation is to grant permission.
- 3.6 Considering the presumption in favour within the NPPF at paragraph 11, adverse effects, particularly in light of the inspector's comments for the appeal under DOV/19/00912, are not considered to be of such magnitude that they outweigh the benefits of the proposal.
- 3.7 The previous reason for refusal was combined in terms of both design and principle. The design has been amended and the principle of development is now considered to be acceptable, with regard to the above material considerations. Accordingly, where mitigation might be required to help embed the proposal into its environment, this is considered achievable through the use of the following planning conditions.

g) **Recommendation**

- I. Planning permission be GRANTED, subject to conditions including the following:
 - (1) Time limit
 - (2) Plans
 - (3) Materials
 - (4) Hard and soft landscaping, schedule of planting, means of enclosure, gates
 - (5) Land contamination
 - (6) Earthworks, contours
 - (7) Removal off-site of excess spoil; existing, and resulting from development hereby permitted
 - (8) Sections, thresholds
 - (9) Foul and surface water drainage scheme
 - (10) No surface water discharge onto highway
 - (11) Bound surface, first 5 metres from road
 - (12) 2 metre deep visibility strip, Selson Lane frontage
 - (13) Bicycle parking
 - (14) Refuse storage
 - (15) Obscure glazing, first floor window east elevation
 - (16) Arboricultural method statement including tree protection
 - (17) No further works to trees without written agreement from LPA
 - (18) Biodiversity enhancement plan
 - (19) PD restrictions, classes A, B, C, E
 - (20) Archaeology
 - (21) Construction environmental management plan
- II. That powers be delegated to the Head of Planning, 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

Darren Bridgett