

a) **DOV/21/00677 – Erection of 2 dwellings, formation of new vehicle access and associated parking (existing garage to be demolished) - 98 Golf Road, Deal**

Reason for report – Number of contrary representations (9 support; 27 objections)

b) **Summary of Recommendation**

Planning permission be refused.

c) **Planning Policy and Guidance**

Core Strategy Policies (2010) (CS)

CP1, DM1

National Planning Policy Framework (NPPF) (2021)

7, 8, 11, 130

Draft Dover District Local Plan

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft Plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

d) **Relevant Planning History**

DOV/99/01234 – Erection of a two-storey side extension and creation of a self-contained flat - Granted.

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

Environment Agency – Object due to lack of a Flood Risk Assessment.

Southern Water – No objection but request standard informative.

Deal Town Council – Object due to lack of a Flood Risk Assessment.

Public Representations:

25 members of the public have objected to the proposals and the material considerations are summarised below. Matters such as impact on an individuals' property value, financial intentions of the applicant etc. are non-material considerations and are not included below.

- Proposed vehicle access would be directly opposite Courtenay Road.
- There is limited parking in the area.
- Concerns about emergency and refuse vehicles accessing the site.
- Site would be overdeveloped.
- Garden is not big enough to build houses.
- Would significantly impact neighbour amenity.
- North Deal needs improvement, not degeneration.
- Could lead to increase in surface water flooding.

- Vehicle access would result in highway and pedestrian safety issues.
- Impact on wildlife habitats.
- No demonstrated need for type of housing proposed in the area.
- Design is out of keeping with the area.

9 members of the public have supported the proposal and the material considerations as summarised below.

- No harm and would save development in the countryside.
- Good use of available space.
- Provide much needed family dwellings.
- Disabled access is a good way forward.
- Would not affect the aesthetics of the area.
- Accommodation needed for young people.

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

- 1.1 The application site is a 2-storey, semi-detached dwelling located on the eastern side of Golf Road, between Links Road and Harold Road and opposite the junction with Courtenay Road. It is of brick construction with render on part of the first-floor level, and uPVC windows. There is an existing attached flat roof, single car garage to the south of the host dwelling. The application site is within the confines of Deal but not within any conservation areas nor within the setting of any listed assets. It is within Flood Zone 3 according to Environment Agency mapping.
- 1.2 At present, the application site to the rear is not visible in public views as it is screened by the garage. However, this garage would be demolished and as such, there would be some views of the proposal site along the vehicle access.
- 1.3 The proposal seeks to erect 2no. 3-storey, semi-detached dwellings in the rear garden area of the host dwelling. These dwellings would be of brick construction to reflect the materials of the surrounding area. These dwellings would have 3no. bedrooms in each. Each dwelling would have 1no. allocated parking space plus there would be an additional disabled parking space. There would be 10m deep gardens to the rear of the site. The rear boundary would be shared with the gardens of 16 and 17 Links Road to the rear. The rear elevations of the main sections of these dwellings are 7.5m from this boundary.

2. Main Issues

- 2.1 The main issues for consideration are:
- The principle of the development
 - Impact on Residential Amenity
 - Impact on the Street Scene

Assessment

Principle of Development

- 2.2 It is necessary to consider the impact that the publication of the Regulation 18 plan has on the assessment of this application. The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft Plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

- 2.3 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 the plan, unless material considerations indicate otherwise.
- 2.4 Paragraph 11 of the NPPF states that development which accords with an up to date development plan should be approved without delay whilst, where there are no relevant development plan policies or where the most important policies are out of date, permission should be granted unless policies in the NPPF for protected areas or assets provide a clear reasoning for refusing the development or where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in NPPF as a whole. A footnote confirms that whether policies are out of date also include instances where the local planning authority cannot demonstrate a five year housing land supply or where the delivery of housing falls below 75% of the housing requirement in the previous three years.
- 2.5 It is considered that policy DM1 is the 'most important' policy for determining this application. For completeness, the tilted balance is not engaged for any other reason, as the council has a demonstrable five year housing land supply (5.56 years worth of supply) and have not failed to deliver at least 75% of the housing delivery test requirement (delivering 80%).
- 2.6 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 557 dwellings per annum. Policy DM1 places a blanket restriction on development which is located outside of settlement confines, which is significantly more restrictive than the NPPF. As a matter of judgement, it is considered that policy DM1 is out-of-date and, as a result, should carry reduced weight. Policy DM1 states that development will not be permitted outside of 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. The site is located within the settlement confines and therefore accords with Policy DM1.
- 2.7 Policy DM1 is out-of-date and is critical to the determination of this application, being the 'most important policy'. The 'tilted balance' described at paragraph 11 (d) of the NPPF would therefore, ordinarily, be engaged. However, the site is located within flood risk zones 2 and 3 and the application has failed to demonstrate that it would meet the sequential or exceptions tests, contrary to the NPPF's policies in relation to flood risk (paragraphs 162 to 165). Where an application is contrary to the NPPF's policies in relation to, inter alia, flooding, footnote 7 advises that the 'tilted balance' should be disengaged.
- 2.8 Notwithstanding the above, the site is within the settlement confines of Deal and as such, the proposal would comply with Policy DM1 of the Core Strategy (CS), subject to other material considerations.

Impact on Residential Amenity

- 2.9 There would be approximately 17.5m between the rear elevations of the proposed dwellings and the rear elevation of the existing dwellings in Links Road. Whilst only a rule of thumb, it is generally accepted that a minimum distance between the rear elevations of unrelated 2-storey dwellings, is 21m. Whilst this can only be taken as a guide, it indicates that the proposal could result in loss of privacy, overlooking and interlooking. Having assessed the proposed development, and given that the proposed dwellings are 3-stories and backing onto 2-storey dwellings, it is reasonable to conclude that there would be a

level of overlooking to the smaller rear gardens of No. 16 and 17 Links Road, and increased opportunity for interlooking from the second-floor rear windows. I consider that this impact would fail to provide a high standard of amenity to existing and future occupiers.

- 2.10 Whilst the proposed dwellings are to the west of the existing dwellings in Links Road, it is unlikely they would result in any loss of light or outlook to these existing dwellings. Using the 45-degree rule of thumb, any shadows from the proposed dwellings are likely to land in their own gardens and not impact upon the neighbours. Whilst these dwelling would be likely to create a greater sense of enclosure for existing residents, on balance it is not considered that this would result in an unacceptable loss of outlook for these neighbours.
- 2.11 The proposed new dwellings would be located over 20m from the rear elevation of the host dwelling. As such, it is unlikely that the proposed dwellings would result in any unacceptable loss of amenity to this property. However, it is considered that overall, given the harm caused to existing residential amenities through overlooking, interlooking and loss of privacy, the proposal would not comply with paragraph 130(f) of the NPPF, failing to provide a high standard of amenity to existing and future occupiers.

Impact on Street Scene

- 2.12 As noted above, once the existing single storey garage is demolished, there would be clear views along the vehicle access of at least the southernmost of the two proposed dwellings. These dwellings would appear to be taller than the host dwelling and, whilst making use of matching materials, would not reflect the surrounding area. This would not help to maintain the identity and character of the area as it would introduce 3-storey buildings into an area dominated by 2-storey buildings. As well, the majority of the buildings in this area have a street frontage, not set behind other existing dwellings. Whilst the only views would be up the vehicle access, the dwellings would be of significant scale such that they would be readily apparent from the public realm. From the public realm, their presence would significantly detract from the well-established pattern of development, causing harm to the street scene.
- 2.13 The majority of the dwellings in this part of Golf Road have long, generous gardens and the loss of this through the increased density of the proposed development would result in some level of harm to the existing street scene. Approximately 1/3 to 1/2 of the existing dwellings along this section of Golf Road retain front gardens with boundary walls. This proposal would result in the total loss of the front garden to provide parking for the host dwelling, creating an unrelieved frontage. This would not be unique in this area, but would add to the overall appearance of the site being at odds with the prevailing character of the area. Overall, it is considered that the proposal would result in harm to the street scene contrary to paragraph 130 of the NPPF.

Other Matters

- 2.14 Allocated parking has been provided as part of the proposal. This would be 1no. parking space per dwelling (a total of 2no. parking spaces) and the provision of 1no. disabled parking space. This level of parking provision would comply with policy DM13 of the CS for new dwellings in edge of centre/suburban areas.
- 2.15 The application site is within Flood Zones 2 and 3 according to the Environment Agency's comments and mapping. No Flood Risk Assessment was submitted with the application, contrary to the NPPF which requires that developments such as that proposed demonstrate that there are no sequentially preferable sites located in areas which have a lower risk of flooding and that there is exceptional justification to grant permission. This

exceptional justification (the exceptions test) includes two elements: firstly requiring that there are wider sustainability benefits to the community which outweighs the flood risk; and that the development would be safe and would not increase the risk of flooding elsewhere. Had this application been otherwise acceptable, this information would have been sought. In the absence of a Flood Risk Assessment, an assessment of the likely flood risk impacts is unknown, whilst the sequential and exceptions test have not been passed.

3. Conclusion

- 3.1 The proposal would result in harm to the visual amenity of the street scene and an unacceptable level of harm to existing residential amenities. As such, it is considered that the proposed development would fail to comply with the aims and objectives of the NPPF and the CS.

g) Recommendation

- I PERMISSION BE REFUSED for the following reasons:

1) The proposal, by virtue of its siting and height, would result in an unacceptable level of overlooking, interlocking, loss of privacy and increased sense of enclosure to dwellings in Links Road, contrary to paragraph 130(f) of the National Planning Policy Framework 2021.

2) The proposal, by virtue of the introduction of back garden development at odds with the prevailing building pattern and density of the area, and the loss of the front garden, would result in harm to the visual amenity of the street scene, contrary to paragraph 130 of the National Planning Policy Framework 2021.

3) The proposed development has failed to demonstrate that no sequentially preferable sites are reasonably available in areas with a lower risk of flooding. Consequently, the development would be subjected to an unacceptable and unjustified risk from flooding, contrary to paragraphs 162 to 165 of the National Planning Policy Framework.

- II Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary reasons/wording in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Andrew Wallace