

DOV/21/01408 – Erection of detached dwelling and creation of parking - Three Ways, Hollands Hill, Martin Mill

Reason for report – Number of contrary views (6 Public Representations & Parish Council)

a) Summary of Recommendation

Planning permission be granted.

b) Planning Policy and Guidance

Core Strategy Policies (2010)

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM11 – Location of Development and Managing Travel Demand

DM15 – Protection of the Countryside

DM16 – Landscape Character

Dover District Local Plan 2002

Saved Policy TR9

National Planning Policy Framework (NPPF) (2021)

Paragraphs 2, 7, 8, 11, 38, 47, 48, 60 – 62, 86, 79, 110 - 112, 120, 123, 130 - 135, 167, 168, 174, 180

National Planning Practice Guidance

National Design Guide (2021)

National Model Design Code (2021)

Kent Design Guide (2005)

SPG4 Kent Vehicle Parking Standards

Self-build and Custom Housebuilding Act 2015 (as amended)

Draft 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. Land to the northeast of the site (some 5.08ha) was submitted as part of the call for sites. It is identified in the HELAA as LAN002. It was not taken forward to the next stage of assessment and was considered unsuitable due to unacceptable landscape impact, unachievable access and development here would have a poor relationship to the settlement and would not be in keeping with the character of the village. It should be noted however that the site, whilst adjacent, does not fall within the area submitted for consideration for allocation.

c) **Relevant Planning History**

Various applications including:

DOV/04/00061 – Removal of Condition (i) to CH/6/52/117, (to allow continued occupation of the dwelling without compliance with an agricultural occupancy condition) – Refused

DOV/04/00533 – Certificate of Lawful use in respect of the continued occupation of Three Ways without compliance with condition (1) of planning application

CH/6/52/117 – Condition not approved

DOV/04/01149 - Certificate of Lawful Use in respect of the Continued Occupation of Three Ways without Compliance with Condition 1 of Planning Application

CH/6/52/117 – Granted

DOV/06/00492 – Erection of single storey rear extension (existing conservatory to be demolished) – Granted

DOV/07/00227 – Erection of single storey rear extension – Granted

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

Representations can be found in full in the online planning files. A summary has been provided below:

Langdon Parish Council – Recommend refusal: considers this proposal to be a speculative application outside of the confines that is not required to address the existing need of any business or activity in the countryside. As noted in the applicant's own Planning Statement, Policy DM1 "states that development will not be permitted outside of the settlement boundaries as defined in CS Policy CP1, unless specifically justified by other development plan policies." The Planning Statement fails to demonstrate any specific local rural need for a new dwelling at Three Ways. The development would result in sporadic development beyond settlement confines and remote from any urban or village centre (DM1). The application is described as a "self-build" project but there is no details within the Planning statement. The parish council notes that applicant is listed as Foster & Payne Construction Ltd c/o the estate agent, Finns, which is does not fit the expected self-build profile. It is not possible to determine that the proposed access can achieve acceptable highway visibility standards on to East Langdon Road. Objection.

Southern Water (SW) – The submitted site plan (drawing no. 445/02) shows easement to public foul sewer which is acceptable to SW. SW requires a formal application for a connection to the public foul sewer to be made by the applicant or developer (information on how to do this would be included as an informative if permission is granted). The planning application form makes reference to drainage using Sustainable Drainage Systems (SuDS). Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Sewers for Adoption (Appendix C) and CIRIA guidance. Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development. This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers. The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

KCC County Archaeology – No response received.

DDC Waste Officer – No response received.

Public Representations: Six members of the Public have written in objection to the proposals (5 of which, together with the Parish Council objection were received within the advertisement period requiring the application to be determined by the Planning Committee). Their comments are available to view in full in the online planning file and are summarised below. Matters such as problems arising from the construction period and loss of views are not material considerations and cannot be considered in the assessment of an application.

- type/need for housing – not an affordable development for locals. Although there is need for development in the area, the councils plans have highlighted an area for future development which satisfies the need for development; queries if 1 detached property also satisfies need for development. Queries if site is appropriate.
- Three Ways is not residential, owner has moved away/emigrated and it is rented out as AirBnB sleeping up to 16 people. Detrimental impact on amenity from use of Three Ways, concerns that further buildings with residents will add to detrimental impact.
- self build - application is to self build the house which seems to be at odds with the fact that the site already has a house. Understand the provision for self-build is to assist owners of land that are in need a home for their use and as such the owners of the land, already have a house on the site which could be used as a residence. Application is by a construction company on behalf of the owner. Concerns there are false intentions for the application.
- Application refers to approved application DOV/21/00090 which is for a local who already uses the land for both business and leisure (self-build and local need). Application also refers to the permission for 40 dwellings nearby in East Langdon which officially has not yet been approved. Concerns that owner of the land previously expressed a desire to build on fields adjoining the site along East Langdon Road (LAN002) on Local Plan currently described as 'Unsuitable'. Green belt land. Concerns that this is first in a series of planning applications to fill in the whole plot as owners plot stretches right along the road.

- Concerns that neighbours not directly notified of application – site notice on the Holland’s Hill gate set back from the road and at the time of looking, blown onto its’ blank reverse side, could find no notice on East Langdon Road gate – concerned that neighbours could only find out about developments when construction begins. Concern that closing date for comments was before next Parish Council meeting.
- Greenfield site which I believe has been subject to previous planning applications which have been refused for good reason
- Concerns development would ruin natural beauty. Concerns that drawings show a bog standard design. Concerns if proposal is complementary and sustainable addition to housing supply.
- Access/Highways – will further increase heavy use of Langdon Road which serves the local school, playing fields and routes to the holiday camp and station. Parents already have a potentially dangerous walk to the school. No pavements for pedestrians. Road has 40mph speed limit. Langdon Road is very narrow. Unsuitable roads for increased traffic. Road is already in poor condition. Flooding causes premature deterioration of the road resulting in potholes and a collapse of the edges particularly on the side adjoining three ways land. More traffic and run off from site will speed this process. Animal access has morphed into a driveway. Concerns that another animal access 20m further along could result in a further application at some stage. Inappropriate parking in Langdon Road and Hollands Hill as a result of AirBnB use of Three Ways (also comments on loud music being played late into the night). Construction of more houses along this road will exacerbate the traffic problems already experienced. Area that the house is to be built on is adjacent to gateway used to access fields behind Parana Lodge – unclear how this would impact continuing to bring stock or supplies onto fields. Unclear whether proposal would affect historically used access to neighbouring adjoining small-holding, an access which has been in use since neighbouring property was built
- Flood risk – road is narrow and susceptible to flooding. Any more hardstanding will significantly increase surface water run off exacerbating the flooding issues experienced during heavy rain.

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

- 1.1 The site relates to the garden of a detached dwelling, located on the northeast side of Hollands Hill, to the southeast of East Langdon Road. The existing dwelling is one and a half storeys in height, finished in brick and render and is well screened from the public highway behind tall hedgerow and planting, with views of the dwelling limited to directly in front of the vehicular accesses. The site is outside of the settlement confines, however is within a cluster of dwellings fronting Hollands Hill, with another small group of dwellings to the north of the site, fronting East Langdon Road. It is bounded by Parana Lodge to the southeast and to the northeast is a grassed field.
- 1.2 This application seeks permission for the erection of a detached dwelling and creation of parking. The dwelling would be sited approximately 20m to the north of the existing dwelling (Three Ways), at a slightly lower ground level and would be 1 ½ storeys in height. It would contain a living room, kitchen/dining/family room and utility at ground floor level with three bedrooms and an additional bedroom/study at first floor level. The dwelling would be finished in painted render, timber cladding and red brick, with a clay tiled roof and dormer windows. The existing vehicular access from East Langdon Road would be utilised and two parking spaces would be provided within

the site. A 1.8m high timber close boarded fence would be installed to provide a garden for the dwelling.

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on the countryside and landscape area
- The impact on residential amenity
- Other material considerations

Assessment

Principle of Development

- 2.2 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.
- 2.3 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 outside of the defined settlement confines, is not supported by other development plan policies and is not ancillary to existing development or uses. As such, the application is contrary to Policy DM1.
- 2.4 DM11 seeks to resist development outside of 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 of the settlement confines (the nearest of which being East Langdon). The nature of the road connection between the site and East Langdon (partly absent of a footway) is such that occupants of the development would most likely to be reliant on the use of the car to travel in order to reach all of the necessary day to day facilities and services. The development is not justified by other development plan policies. As such, the development is contrary to Policy DM11.
- 2.5 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 the exceptions. The development would result in a limited adverse impact on the countryside (as detailed further in the report). The development would not meet any of the exceptions listed in Policy DM15. Whilst it is considered that the development would have only a limited impact on the character and appearance of the countryside (discussed in detail later in the report), this alone would be sufficient for a proposal to be considered contrary to DM15.
- 2.6 Policy 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 it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level. It is considered (further in this report) that the development would have only a limited impact on the character of the countryside

and no significant adverse impact on the landscape. Consequently, the development would not conflict with DM16.

- 2.7 For the above reasons, the development is contrary to policies DM1, DM11 and DM15 of the Core Strategy, but would accord with DM16. It is considered that these policies are also the most important policies for determining the application.
- 2.8 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 7 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (as assessed by the Housing Delivery Test).
- 2.9 Having regard for the most recent Housing Technical Paper (2021), the Council are currently able to demonstrate a five-year supply. The council have delivered 80% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.10 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. 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 only limited weight.
- 2.11 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable transport. Given the particular characteristics of this application and this site, it is considered that the use of the site as proposed would weigh against the sustainable travel objectives of the NPPF. Whilst the blanket restriction of DM11 is in tension with the NPPF, given that the policy otherwise reflects the intension of the NPPF to promote a sustainable pattern of development, on balance, it is not considered that DM11 is out-of-date. However, the weight to be afforded to the policy, having regard to the degree of compliance with NPPF objectives in the circumstances presented by this application, is reduced.
- 2.12 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 (another blanket approach) is more stringent than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development (Paragraph 174). There is some tension between this policy and the NPPF. In this instance the sites appearance within open countryside does

afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.

- 2.13 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations in the DPD and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level. As with Policy DM15, this policy is considered to be in some tension with the objectives of the NPPF (particularly Paragraph 174), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced. In this instance the sites appearance within wider landscape character does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.
- 2.14 The Council is in the Regulation 18 or 'consultation' phase of the draft Dover District Local Plan. This is the start of a process for developing a new local plan for the district, replacing in due course the Core Strategy and Land Allocations Local Plan. At this stage the draft is a material planning consideration for the determination of planning applications, although importantly it has little weight at this stage. As the plan progresses, it will be possible to afford greater weight to policies or otherwise, commensurate with the degree of support/objection raised in relation to them during the consultation process. A final version of the Plan will be submitted to the Planning Inspectorate for examination to determine if the Plan can progress to adoption and, if so, the degree to which final modifications will/will not be required. At the time of preparing this report therefore, policies within in the draft plan are material to the determination of the application, albeit the policies in the draft Plan have little weight at this stage and do not materially affect the assessment and recommendation.
- 2.15 It is considered that policies DM1, DM11, DM15 and DM16 are to a greater and 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, and as such, the tilted balance approach of Paragraph 11 of the NPPF is engaged.

Impact on the Countryside and Landscape Area

- 2.16 The site is outside of the settlement confines and as discussed, is considered to be within the countryside and is therefore subject to Policy DM15. The proposals would result in the erection of a 1 ½ storey detached dwelling, finished in red brick at ground floor level, with sections of painted render below the eaves level and on the flank elevations at first floor level. The dwelling would have a pitched, clay tiled roof, with a 1 ½ storey projection to the rear (southeast) with a gable roof with lower ridge height. The dwelling would also have a 1 ½ storey projection to the southeast side which would be finished in timber cladding, would be set back from the main front (northwest) elevation, and would have a lower ridge and eaves height. The proposed design of the dwelling is similar to that of a recently approved scheme (DOV/21/00090 – Bluebell Meadows – currently under construction) for a dwelling to the northwest of the site on the opposite side of East Langdon Road. In order to ensure a high quality finish and in the interests of visual amenity, it is considered appropriate to suggest a condition is imposed requiring details of materials (to be used in the construction of the exterior of the dwelling) and their finishes, are submitted for approval. Subject to

this, it is considered that the design of the dwelling would be visually attractive, sympathetic to the local character of the area and would add to the overall quality of the area in accordance with Paragraph 130 of the NPPF.

- 2.17 Whilst the proposal would be visible from the public highway, albeit views would be restricted by the tall hedgerow to the southwest and west site boundaries, due to the siting of the dwelling within a valley, it is considered there would be limited views of the dwelling from the wider countryside. Notwithstanding this, the development would also be seen within the context of the existing cluster of development along Hollands Hill and further north on East Langdon Road. Subject to the suggested condition discussed above, it is considered that the development would preserve the intrinsic character and scenic beauty of the countryside, in accordance with Policy DM15 and Paragraph 174 of the NPPF.
- 2.18 In respect of the impact on landscape character, due to the location of the site being set within a valley, and due to the screening from the wider area provided by the undulating landscape, boundary planting and other nearby development, the proposals are considered unlikely to result in substantial harm to the character of the landscape, and would accord with Policy DM16.

Impact on Residential Amenity

- 2.19 The proposed dwelling would be sited to the north of Three Ways and to the northwest of other nearby dwellings fronting Hollands Hill, and would be set at a lower ground level than these properties. Due to the direction of the sunpath and distance from these properties, and other properties to the northwest of the site (fronting East Langdon Road), it is considered the development would result in no unacceptable overshadowing or loss of light to neighbouring residential amenity.
- 2.20 In respect of privacy, the dwelling would feature a number of windows at ground and first floor level on the rear (southeast) and flank (southwest) elevations. These windows would predominantly overlook the proposed garden of the dwelling and driveway and garages to the southeast. Additional screen planting would be installed to the southwest of the proposed 1.8m timber close boarded fence that would form the garden boundary for the new dwelling. In respect of windows on the front (northwest) elevation of the dwelling, these would overlook the front garden of the dwelling, boundary planting and highway beyond and it is considered that due to the separation distance to nearby dwellings to the northwest, the development would result in no harm to privacy. Notwithstanding this, in the interests of visual and residential amenity, it is considered appropriate to suggest a condition is imposed requiring further details of hard and soft landscaping, clarifying the proposed planting within the site and boundary treatments, to ensure these are appropriate and would preserve the rural character and appearance of the site and surroundings.
- 2.21 For the reasons set out above, and due to the siting, scale and design of the dwelling, it is considered that the development would not result in an overbearing impact on the amenities of nearby residents and would accord with the amenity objectives of Paragraph 130 of the NPPF. Concerns have been raised in public representations in respect of potential noise and disturbance from the use of the dwelling, with reference made to the existing use of Three Ways as holiday accommodation/rental. This could be dealt with through Environmental Health legislation. The creation of a dwelling in this location, which would utilise an existing vehicular access, is not considered to result in unacceptable noise or disturbance to nearby residents.

- 2.22 In respect of the amenity of the proposed occupants, the dwelling would contain four bedrooms (one possibly used as a study), with well sized living, kitchen and dining rooms at ground floor level with access to a private enclosed garden. Two parking spaces would be provided, with sufficient room within the site for the turning of vehicles, and there would be no change to the existing access. No details of secured bicycle storage or refuse storage have been provided and as such, it is considered appropriate to suggest these details be submitted by way of condition, in the interests of visual amenity. Subject to this, it is considered the development would provide a high standard of amenity for existing and future users, in accordance with Paragraph 130(f) of the NPPF.

Other Material Considerations

Impact on Travel

- 2.23 Policy DM11 seeks to restrict travel demand outside of the rural settlement confines. The nearest village is East Langdon and the site is approximately 378m from the defined settlement confines (where new residential development would be acceptable in principle) (although it should be noted that the draft plan, although holding very little weight, includes a 4.68ha suggested allocation LAN003 for 40 dwellings to the northeast of the existing confines boundary, infilling the gap between this and the Langdon Playing Fields which, if adopted into the plan, would extend the confines). Nonetheless, the village would be accessed via a rural, unlit road which is not conducive to walking or cycling (albeit it is on a cycle route under Saved Policy TR9) and has no dedicated footways. The village contains a limited range of facilities, including a Post Office and Primary School. These facilities (together with other facilities in the nearby Hamlet of Martin to the north which has a Public House with restaurant and bus stops and Martin Mill where there is a seasonal shop at the holiday park) would not provide all of the day to day essentials required by occupants of the proposed dwelling. A bus service does run from the village (passing the site and stopping further along East Langdon Road in Martin), providing some limited return services towards Deal (via the village of Ringwould) and Dover (via Guston), as well as surrounding villages. Within a 10 minute walk of the site is Martin Mill Train Station which has regular services to Dover, Deal and other Towns, as well as London (Charring Cross). Given the service provided and lack of footways, it is considered that the occupants of the proposed dwelling would be more likely to use the private car to gain access to neighbouring towns and the surrounding areas. As such, it is considered that the proposal would be contrary to Policy DM11 of the Core Strategy, in that it would generate travel outside the rural settlement confines which is not justified by other development plan policies. Further, it is considered that the sustainability of travel to and from the site is in tension with the NPPF in some respects (for example, the location does not promote sustainable transport or prioritise pedestrian and cycle movements). However, it is considered that the location of the site, relatively close to a number of facilities and services (albeit not a full range of day to day facilities and services), could provide some assistance in providing further assistance to local services and the vitality of rural services (NPPF paragraph 79). Some weight should be provided in favour of the development in this respect which provides some counterbalance to the otherwise unsustainable nature of the site's location.
- 2.24 It is important to note that, above, reference has been made to paragraph 79. In doing so, it has been concluded that the site is not 'isolated' for the purpose of assessing this rural housing application.

Impact on Parking

- 2.25 The proposed dwelling would contain four bedrooms and two parking spaces would be provided to the northeast of the dwelling, as well as turning space enabling access and egress to the site in forward gears. As such, the development would accord with the parking requirements set out in Policy DM13. As the site is located outside of the settlement confines (where there is limited public transport), and in order to provide sustainable transport in line with the objectives of Paragraph 112 of the NPPF, it is considered appropriate to impose a condition requiring electric vehicle cable ducting to be laid to serve the proposed development. The existing vehicular access would be utilised and the number of vehicle movements generated from the proposed use of the site are considered unlikely to result in an unacceptable impact on highway safety (as set out in Paragraph 111 of the NPPF).

Impact on Flood Risk/Drainage

- 2.26 The site is located in flood zone 1 which has the lowest risk from flooding and as such, the sequential and exceptions test are not required. Furthermore, due to the size of the site; less than 1 hectare, a flood risk assessment is not required. The site is within Groundwater Source Protection Zone 3, and as such, Policy DM17 is not relevant to the assessment of the application. The application form states that surface water would be disposed of to a sustainable drainage system and soakaway and that foul sewage would be disposed of to the mains sewer. Concerns have been raised in public representations in respect of highway flooding and Southern Water advise that further details should be submitted in respect of sustainable drainage systems, although raise no objection. Subject to the imposition of a condition requiring further details to be submitted in respect of the proposed surface water drainage, in order to reduce the impact of the development on flooding and manage run-off flow rates, the development is considered acceptable in this regard.

Impact on Archaeology

- 2.27 The site is in a general area of archaeological potential and whilst KCC Archaeology has been consulted, no response has been received. As such, it is considered appropriate to suggest a condition is imposed dealing with any unexpected archaeology that may be found during construction. Subject to this, the development is considered acceptable in this regard.

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

- 2.28 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.
- 2.29 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.
- 2.30 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.

- 2.31 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.
- 2.32 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.
- 2.33 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.

Planning Balance

- 2.34 The principle of the development is contrary to the development plan in respect of Policies DM1 and DM11 (however accords with Policies DM15, save for the loss of countryside, and DM16). As discussed in the principle of development section of this report, it is acknowledged that some of the key policies in the determination of the application are out of date and hold reduced weight and as such, the tilted balance approach set out in Paragraph 11 of the NPPF is engaged. In such circumstances, permission must be granted unless material considerations indicate otherwise.
- 2.35 Policy DM1 carries limited weight, however Policy DM11 carries greater weight as it is considered to broadly be in accordance with the key sustainable development objective of the NPPF. As considered in the above report, the development would generate travel outside of the rural settlement confines contrary to Policy DM11. Whilst there are a number of services and facilities within the nearby Village of East Langdon and Hamlet of Martin and surrounding settlements, which can be reached on foot, by bicycle or by public transport, it is acknowledged that occupants of the dwelling may be more likely to use the private motor vehicle to reach a wider range of services, which weighs against the scheme. However, it is considered that the location of the site, relatively close to a number of facilities and services (albeit not a full range of day to day facilities and services), could provide some assistance in providing further custom to local services and the vitality of rural services in accordance with Paragraph 79 of the NPPF, which weighs in favour of the scheme.
- 2.36 This application is for a self-build dwelling and the applicant is registered on the Dover District Self Build Register. The provision of such dwellings are supported by the NPPF (paragraphs 60-62), which advises that the provision of self-build (and other) types of housing should be reflected in planning policies. The councils current policies do not reflect this. Planning Guidance confirms that "The registers that relate to the area of a local planning authority – and the duty to have regard to them – needs to be taken into account in preparing planning policies, and are also likely to be a material consideration in decisions involving proposals for self and custom

housebuilding". Regard should be had to the application proposal to provide one self-build plot. The definition of self-build is "Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act". Whilst regard has been for the councils duties in respect of self-build housing, the provision of one self-build plot to one individual on the register it is not considered to be determinative in this instance and therefore it is not proposed to secure the provision of this dwelling as a self-build plot, should permission be granted.

- 2.37 For the reasons set out in the report, it is considered that the design of the proposed dwelling would be visually attractive, sympathetic to the local character of the rural area and would function well and add to the overall quality of the area in accordance with Paragraph 130 of the NPPF. It is also considered that the design, scale and siting of the dwelling would preserve the character and scenic beauty of the countryside and would be unlikely to result in significant harm to the wider landscape character, in accordance with Policies DM15 and DM16. The impact on residential amenity and other material considerations has been addressed above is considered to be in accordance with the objectives of the NPPF.
- 2.38 Overall, whilst this is a very finely balanced assessment, it is considered that the disbenefits of the scheme do not outweigh the benefits, with material considerations indicating that permission should be granted, subject to relevant conditions.

3. Conclusion

- 3.1 As outlined above, the site lies outside of the settlement confines and is therefore considered to be within the countryside. The tilted balance approach set out at Paragraph 11 of the NPPF is considered to be engaged as the Policies most important for determining the application are out-of-date and in conflict to a greater or lesser extent with the NPPF. Due to the design and appearance of the proposed dwelling, and for the reasons outlined in this report, the development is considered to preserve the character and appearance of the countryside and wider landscape area. Furthermore, the development is considered unlikely to result in undue harm to residential amenity. The development would generate additional travel outside of the settlement confines, contrary to Policy DM11. However, in light of Paragraph 11 of the NPPF, and in taking into account other material considerations as discussed in the planning balance section of this report, it is considered that the benefits of the development outweigh the disbenefits and it is recommended that permission be granted.

g) Recommendation

- I PERMISSION BE GRANTED subject to conditions:
- (1) Standard time condition, (2) list of approved plans (3) samples of materials (4) details of soft and hard landscaping (including boundary treatments and driveway/hardstanding surfaces) and schedule of planting (5) provision and retention of the parking area with drainage measures installed (6) details of surface water disposal (7) cables for EV charging points (8) details of refuse/recycling storage (9) details of bicycle storage (10) unexpected archaeology
- II Southern Water Response and contact information be provided as an informative.

- III Powers to 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

Rachel Morgan