

a) **DOV/20/01538 – Erection of a dwelling with associated parking and access - Stalisfield Lodge, Park Road, Temple Ewell**

Reason for report: Due to the number of contrary views.

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policies and Guidance**

Planning and Compulsory Purchase Act 2004

Section 38(6) – requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

Core Strategy (2010)

CP1, DM1, DM13, DM17

National Planning Policy Framework (NPPF) (2021)

The most relevant parts of the NPPF are 8, 11, 38, 79, 130

The Kent Design Guide (KDG)

Draft Local Plan (Regulation 18)

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**

None applicable.

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

KCC Highways: It is a served private street (Malvern Road) and therefore is not a highway matter. The traffic generated by one dwelling is unlikely to have a severe impact on the highway network. There may be concerns regarding construction traffic using the private streets, but this is something that will need to be resolved between the street manager/owner and the applicant. You may wish to consider requesting a construction management plan, but this would presumably be on the grounds of amenity.

Kent Fire and Rescue Service: The emergency access requirements for the Fire and Rescue Service have been met.

Temple Ewell Parish Council: In order to protect the neighbouring properties and residents we would ask that the following points are considered:

That a restriction is made on construction and deliveries, only permitted these to take place between 09:00 and 17:00 each day between Monday and Friday (excluding Public Holidays).

That the temporary Tree Preservation Order (TPO 21/0001) be made permanent in order to limit the noise and light pollution to neighbouring properties.

That no construction is permitted until the developer has obtained Rights of Access from Malvern Riad which is Private Road and managed by a local residents association.

The Tree Report indicates that a significant number of trees will be removed (some due to disease) or reduced in size to facilitate the construction of the new dwelling. We would draw your attention to Draft Local Plan DM Policy 9 – Tree Planting & Protection: in addition to 2 new trees being planted for each new dwelling, two replacement trees (ideally of a similar size) should be planted for each tree removed. We would re-iterate that we would wish the current temporary Tree Preservation Order (TPO/21/00001) to be made permanent contemporaneously with any planning authorisation for this site.

KCC Archaeology: The site lies within an area of multi-period archaeological potential and close to the line of the former Roman road from Dover to Canterbury. As the site is on a slope there is the potential for archaeological remains to be buried beneath or contained within hill wash. The proposed development has the potential to impact on below-ground archaeological remains and I recommend that in the event that planning permission is granted a watching brief condition is included.

Southern Water: Requires a formal application for a connection to the public foul sewer to be made by the applicant.

Third-party Representations: 31 letters of representations have been received, of which 29 letters are objections and 2 letters being neutral, these are summarised below:

#### Ecology

- Trees have been removed from the site
- The tree survey commissioned on 24<sup>th</sup> March 2021 following previous destruction of trees as detailed in photographic and video evidence provided to DDC
- Loss of habitat
- Lack of bat survey

#### Residential amenity

- The new dwelling would face directly into the houses opposite
- Loss of privacy to Treetops and numbers 5, 13 and The Firs
- Loss of a view in regards to 5, 13 and The Firs
- There is no daylight/sunlight assessment
- No windows overlooking Stalisford Lodge
- The proposal contravenes the 45-degree rule
- Noise and disturbance with construction vehicles and new vehicular movements along Malvern Road
- Noise and disturbance from the car parking space in respect of the garden room at Treetops

#### Visual amenity

- The proposal is disproportionate in size and overbearing
- Harm the landscape character and special quality of the immediate area
- House is out of keeping with the locality
- The site lies within the AONB

- Out of character with the area
- Light pollution
- Loss of a Victorian wall
- Overdevelopment
- The land levels are all significantly higher than those in London Road
- Concerns the bank could become unstable (towards London Road)

#### Highway safety

- London Road is already dangerous for both cars and pedestrians. An additional dwelling will compound the problem.
- There is an association for the upkeep of the roads and who will pay for it.
- The roads have no hardcore base, its flint and chalk
- Malvern Road is a narrow single-track lane, its actual width at the proposed site entrance is 2.9 m not 5m as listed on the plans.
- Emergency services would be unable to access the dwelling
- Construction and use of heavy vehicles along a private a lane will be catastrophic

#### Other matters

- Lack of communication from the developer
- Surplus of unsold homes in Temple Ewell
- Restricted covenant
- Foul sewage unknown
- Stalisford Lodge only has access of Park Lane
- DDC have a five-year housing land supply
- The plans are inaccurate and misleading, especially in view of the grass verge
- Existing verge along Malvern Road, not shown on plans
- The proposal contravenes the 45-degree rule

#### Neither objecting nor supporting

- There are no visible site notices in London Road

Officer comment - Site notices were posted along Malvern Road, where the access and property would be visible. Given the dividing distance and TPO's in place along London Road, it is considered the properties along this road would not be affected.

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

##### The Site

- 1.1 The application relates to land to the south-west of Malvern Road, which is within the settlement confines of Temple Ewell and within an Area of archaeological importance. The settlement benefits from a church, village hall, school, shop and Kearsney Abbey train station within 0.10km from the application site.
- 1.2 Malvern Road is a private unmade road serving a number of dwellings. The characteristics of the road is verdant in nature, with generous size dwellings on substantial plots along the south west, being set back with parking to the front of the dwellings. Directly opposite the site, the dwellings are built up against the roadside, with limited parking. The road does not have a footpath or street lighting but does have a grass verge.

- 1.3 The application site is within the garden of Stalisfield Lodge on the lower terrace of the property Tree Tops, to the south east. The land level is lower than that of the host dwelling. The topography of the land slopes from Malvern Road to Park Road. At the time of the site visit, it was evident that some trees had been previously removed and TPO's have been placed along the south western boundary adjacent to London Road, consisting of Beech, Holly and Holms Oaks. To the south east of the site is a detached chalet bungalow known as 'Treetops', with a brick wall denoting the dividing boundary. This property benefits from a garden room to its frontage with the road built up against the adjoining boundary. Directly opposite the site is a pair of semi-detached, three storey dwellings.

### The Proposal

- 1.4 Originally, the application sought permission for a pair of three bedroom detached dwellings, which was considered to be an overdevelopment of the site. The development has now been amended to a single dwelling. Amendments have been sought throughout the application process, including setting the proposal off the boundary by approximately four metres and the reduction in the overall height by one metre.
- 1.5 Planning permission is sought for the erection of a detached dwelling measuring approximately 13.8m in width x 8m in depth and an additional rear projection of 6.4m. The overall height would be approximately 7.5m and have an eaves height of 3.6m. The dwelling would consist of utility, kitchen, lounge, dining room, bedroom at ground floor and four bedrooms, bathroom and ensuite at first floor. The applicant is proposing to provide three car parking spaces, with low level planting, however within the north eastern corner of the parking area, the applicant is now proposing an area of semi mature trees.
- 1.6 In terms of design, the dwelling is two storeys apart from the element adjacent to the neighbouring property Tree Tops, to the south east, where there is a catslide roof with a 1.5 storey eaves height. The materials palette comprises mainly brick elevations with a section of slate grey Marley Cedral weatherboarding to the front and rear elevations. The roof would have Marley 'Riverdale' fibre cement slate tiles.

## **2. Main Issues**

- 2.1 The main issues are:
- Principle
  - Visual amenity
  - Impact on Residential amenity
  - Highways
  - AA/protected species
  - Trees
  - Archaeology
  - Other Matters

### **Assessment**

#### Principle

- 2.2 The application site falls within the village confines of Temple Ewell and therefore under policies CP1 and DM1, the erection of a dwelling within the settlement boundary is acceptable in principle, subject to material considerations.

- 2.3 In March 2017 DDC Cabinet agreed to commence the review of the preparation of a single local plan. The decision to review is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policies CP1 and DM1) are to various degrees, now considered inconsistent with aspects of the NPPF. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore, whilst the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending on the nature/location of the proposal in question and the degree to which the policy adheres to and is consistent with the policy approach in the NPPF.
- 2.4 With regard to this particular application, the focus of the NPPF is to locate new housing development within suitably sustainable locations. Supporting the principle of new housing within the village confines would be consistent with Paragraph 79 of the NPPF, which seeks 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 principle of allowing housing development in this location is compatible with the objectives of the Development Plan and the requirements of the NPPF.

#### Visual Amenity

- 2.5 The application site is located within the settlement boundary of Temple Ewell. Paragraph 130 (f) of the NPPF sets out that 'planning decisions should ensure that developments 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' The NPPF continues at paragraph 130 (c) setting out that 'planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment, whilst not preventing or discouraging appropriate innovation or change'.
- 2.6 The garden serving Stalisfield Lodge is of a generous size compared with those serving other dwellings within the vicinity, on both sides of the road. Malvern Road is also characterised by a mixture of different architectural styles and designs. Whilst the host dwelling is an older property with traditional design features, the property to the south east, Tree Tops is a more contemporary chalet style bungalow.
- 2.7 Stalisfield Lodge is on higher ground than Tree Tops. The two-storey nature of the proposed dwelling together with the catslide roof element to the side, is seen as a suitable transition in terms of scale and massing between the two dwellings, in terms of design and materials. The proposed dwelling has traditional pitched roof forms, with traditional materials. Whilst its elevations are of a simple form with large more contemporary window and door styles and arrangement, it is considered that the development would sit comfortably on the plot and within the street scene. In turn, the reduced parking area and proposed planting would help to assimilate the development into the street scene. This can be controlled by condition. There would be no harm to visual amenity as a result.
- 2.8 For the reasons set out above, the proposed development is considered to be acceptable in respect of bulk, scale, massing, and design and would not result in visual harm within the street scene. The proposed development is considered to comply with the aims and objectives of the NPPF, in particular paragraphs 130 a) and c).

### Impact on Residential Amenity

- 2.9 Paragraph 130 (f) of the NPPF sets out planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.
- 2.10 The application site is located within the garden area of Stalisfield Lodge and to the north west of Treetops. Further consideration needs to be given to the occupiers of the properties directly opposite the proposed dwelling namely 5, 13 and The Firs, Malvern Road. Of concern to local residents is the loss of the trees (to be discussed later in the report) and how this has opened up the site, and as such their views and privacy has changed. Site visits have been undertaken with neighbours and within the application site following the removal of the trees and therefore the following assessment has been made on this basis.
- 2.11 Numbers 5, 13 and The Firs are directly opposite the site, separated by the width of Malvern Road with a small garden area to the front of the properties. Concerns have been raised over the dwelling having an overbearing impact on these properties, in regards to the height and position. The overall height of the proposed dwelling is approximately 7.5 metres. The topography of the land slopes from Malvern Road towards London Road, so the land level is significantly lower where the proposed dwelling would be sited. Having regard to the position of the dwelling being set back from the road frontage by approximately 16.5 metres with the proposed off-street parking to the front of the proposal, coupled with the lower ground level, it is not considered there is likely to be any adverse impact caused by the proposed development in terms of overbearing development or overlooking and a subsequent loss of privacy.
- 2.12 In relation to potential noise and disturbance in respect of cars entering and leaving the site. This is a residential area and whilst the road might be narrow, an additional dwelling would not be likely to generate such traffic that would cause significant harm to neighbouring properties. Whilst sympathetic to the concerns of these properties in this respect, it is accepted that Malvern Road is narrow, this is not an uncommon feature within residential areas and it is not considered a refusal would be justified in this regard.
- 2.13 Consideration needs to be given to the occupiers of Treetops, as this property is within close proximity of the proposed dwelling. Reference has been made to potential noise and disturbance from the proposed front parking area upon this properties enjoyment of their detached garden room, that is located to the frontage of their land, to the east of the application site. The existing use of the application site is a garden to serve Stalisfield Lodge. The proposed parking area to serve the new dwelling is some distance away from the neighbouring properties garden room, at 9.7m, such that it is not considered that there would be any significant harm to residential amenity. The applicants intention is also to plant semi-mature trees on the area dividing the parking area and Treetops which will act as a buffer between the two properties. This can be secured by way of a condition.
- 2.14 Further concerns have been raised in respect of outlook when viewed from Tree Tops. Tree Tops is a chalet bungalow set away from the dividing boundary by approximately 2m. Treetops has a glazed window within the flank elevation and is built close to the dividing wall and there is also a window to the front elevation serving a kitchen/diner, overlooking their garden room. Given the constraints on site, (the TPO's to the rear of site) it is not possible to move the proposed dwelling back any further within the plot. However, the proposed development has been set off the boundary by approximately 4m and has been reduced in height by 1m

and is designed with a catslide roof on the 6m forward projection to that of treetops to minimise the bulk of the dwelling. It is accepted the proposal would be visible, however given the position of the windows (as set out above) and the existing brick wall in situ, the outlook is already constrained, as such it is not considered sufficient to warrant a reason for refusal on this basis.

- 2.15 Further concerns have been raised in respect of overlooking from the proposed development to Treetops. The proposed dwelling has been designed with a high-level window at ground floor level serving a dining room with a head height of approximately 2.2m. Given the height of the dividing boundary wall, together with the separation distance to Tree Tops and the fact that it would be facing in the direction of the front external amenity area of this property, then there would be limited adverse harm. In addition to this, four rooflight windows are proposed within the roof slope and given the nature of these windows these are not considered to result in any direct overlooking. Further concerns have been raised over the windows within the front and rear elevations, with regards to additional overlooking into the amenity spaces serving Treetops. In respect of the windows within the front elevation, given the position of the proposed dwelling set off the boundary and the position of the windows at first floor, this is not considered to result in any direct overlooking. In respect of the windows to the rear given the screening is to be retained, any views would be long range and oblique and not directly into the amenity space currently enjoyed by the occupiers of Treetops. Furthermore, it would be appropriate to impose a condition ensuring the screening is to be retained.
- 2.16 To the north east of the proposed dwelling is Stalisfield Lodge, which is on the higher terrace of the existing site and is of a substantial size, with windows looking in the direction of the application site but not its most private amenity area. The remaining garden of Stalisfield Lodge would divide the two dwellings. In addition to this, the proposed development has been designed with no windows within the flank elevation facing this property and therefore the proposed development is not considered to adversely impact on the residential amenities of the occupiers within Stalisfield Lodge.
- 2.17 Given the location of the proposed dwelling and the constricted nature of the site, it is considered appropriate to remove permitted development for the enlargement of the dwellinghouse and the addition or alterations to the roof, this will allow the local planning authority to assess any future impacts these changes may cause.
- 2.18 In respect of the future occupiers of the new dwelling, the rooms of the proposed dwelling would be of acceptable sizes and would be naturally lit. The internal living conditions of the future occupants would be acceptable. In respect of the access to the site, Kent Fire and Rescue have set out the emergency access requirements have been met. In addition to this, the applicant is proposing a waste storage structure to the front of the property and cycle storage, these details have been submitted and are considered acceptable. Given the proximity of the dwelling to other residential properties, it is considered appropriate to attach a condition relating to a construction management plan.
- 2.19 For these reasons set out above, the proposed dwelling is not considered to result in significant harm to the residential amenities of the occupiers of the existing dwellings and the living condition of future occupants, complying with the aims and objectives of the NPPF.

#### Highways

- 2.20 Local residents have raised concerns over the width of the highway and the suitability of the road for additional traffic. Reference has been made to the access from London Road from Edgerton Road where a previous application had been refused, however, this was in 1988 and whilst the site conditions have not changed, Kent Highway Services have been consulted and have set out that one dwelling is unlikely to have a severe impact on the highway network. However, regarding construction traffic using the private streets this is something that would need to be resolved between the street manager/owner and the applicant.
- 2.21 Kent Highway Services have stated that 'Malvern Road is a private street and is therefore not a highway authority matter. However, that said given the proposed development would involve the introduction of three parking spaces to the front of the proposed dwelling and the applicant has demonstrated that visibility splays of 2m x 2m can be achieved, KHS have been asked for comments. They have set out that the proposed visibility splays are 'sufficient and can be achieved' and as such this element of the proposal is considered acceptable. That said, it is considered to be reasonable to impose a condition on any grant of planning permission for this to be constructed prior to the first occupation of the dwelling and maintained as such.
- 2.22 Parking provision for residential development should be informed by the guidance for residential parking in the Dover District Core Strategy. This suggests that a minimum of two independently accessible car parking spaces be provided for residents of the dwelling, together with an additional 0.2 spaces per dwelling for visitors, although parking should be a design-led process. The development would accommodate three parking spaces, meeting the needs generated by the occupiers of the dwellings. The applicant is proposing off-street parking. Having regard to the above, the development is considered to provide sufficient car parking provision and would comply with policy DM13 of the Core Strategy. For the reasons set out above, I am satisfied the proposal would not adversely impact on highway safety.

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

- 2.23 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.
- 2.24 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.
- 2.25 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. 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.

- 2.26 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.
- 2.27 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.

#### Trees

- 2.28 Concerns have been raised over the loss of some of the existing trees prior to the application being submitted. At the time, these trees were not protected and therefore there was no impediment to their removal.
- 2.29 During the course of the application Tree Preservation Orders have been placed on the Holly, Beech, Yew and Holm Oaks to the rear of the site, fronting onto London Road due to their screening value. However, in order to facilitate the new development a row of Leylandii and a Lawson Cypress against the dividing boundary with Tree Tops would be removed. DDC Horticultural Officer has raised no concerns in this regard due to them being considered to be of low amenity value and as such these are not protected. However, to help mitigate the loss of these trees and to protect the character and appearance of the area, new semi mature trees will be planted and conditioned to remain as such thereafter.

#### Archaeology

- 2.30 The site lies within an area of multi-period archaeological potential and close to the line of the former Roman road from Dover to Canterbury. As the site is on a slope there is the potential for archaeological remains to be buried beneath or contained within hill wash. The proposed development has the potential to impact on below-ground archaeological remains and therefore KCC Archaeology has recommended a condition be attached to any grant of planning permission to ensure that a watching brief is carried out by a competent archaeologist.

#### Other Matters

- 2.31 Concerns have been raised from local residents in respect of discrepancies with the plans, showing different measurements throughout the application and the amendments, especially in view of the road measurements. Kent Highway Services are satisfied that based on their data, they are able to make a judgement on the acceptability of the scheme. In respect of the other inaccuracies i.e., the lack of verge shown on the original drawings, this was rectified. Furthermore, the measurements on the latest set of plans reflects what is on the ground.

### **3. Conclusion**

- 3.1 By virtue of the relevant Development Plan policies not being up-to-date, it is considered that the 'tilted balance' (Paragraph 11, NPPF) must be applied.

Relevant to the circumstances of this application, this indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies of the NPPF as a whole.

- 3.2 There is a need for new housing development that is in a sustainable location, with reasonable access to public facilities and amenities. The application site is located within the village confines within reasonable walking and cycling distances of the village's facilities and amenities. Its location would meet the requirements of the Development Plan and is supported by the NPPF.
- 3.3 With regard to the objective of achieving good design, it is considered on balance, that the proposed development would not have an unduly adverse impact on either the character and appearance of the area, the living conditions of the occupiers of adjacent properties, or highway safety, to the extent that this would warrant a refusal of planning permission. Therefore, the development is considered acceptable, subject to appropriate conditions and accords with the aims and objectives of the NPPF and policies CP1, DM1, DM13 of the Core Strategy.

**g) Recommendation**

- I PLANNING PERMISSION BE APPROVED subject to the following conditions:
  1. Time period
  2. In accordance with approved plans
  3. Materials
  4. Landscaping
  5. Drainage details
  6. Parking provision
  7. Visibility splays
  8. Construction management plan
  9. Measures to accommodate electric vehicle charging facility
  10. Provision of refuse and cycle storage facilities
  11. Removal of permitted development within Part 1, Classes A, B and C
  12. Archaeology
- II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions, in line with the issues set out in the report and as resolved by Planning Committee

Case Officer

Karen Evans