

- a) **DOV/21/01699 – Erection of a detached dwelling with associated parking, boundary fence, the creation of a vehicle access and associated parking for Gore Cottage (existing garage to be demolished) - Gore Cottage, Gore Lane, Eastry**

Reason for report – Number of contrary representations (14)

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policy and Guidance**

Core Strategy Policies (2010)

CP1, DM1, DM11, DM13

National Planning Policy Framework (NPPF) (2021)

Paragraphs 2, 7, 8, 11, 110-112, 130, 174, 194-208

National Planning Practice Guidance

National Design Guide (2021)

National Model Design Code (2021)

Kent Design Guide (2005)

SPG4 Kent Vehicle Parking Standards

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.

d) **Relevant Planning History**

DOV/20/00132 - Erection of a detached dwelling with associated parking and boundary fence and the creation of a vehicle access and associated parking for Gore Cottage (existing garage to be demolished) - Refused

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

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

Eastry Parish Council – Now that the vision splay issue has been resolved the Parish Council have no objection to this application.

KCC Highways and Transportation – Plans have been submitted demonstrating the visibility splays. The application red line includes part of the required 2.4 metres x 43 metres visibility splay to the north of the proposed access. If you are content that this enables the provision and maintenance of the splay to be suitably enforced then it would be acceptable. However, I would point out that the splay also appears to cross private land further to the north (the highway boundary is at the edge of the carriageway), and therefore the red line will need to be extended further to encompass the entire splay. Whilst the splay to the south appears to partly encroach on private land I am satisfied that if the splay to the north can be achieved, it will allow a driver to move slightly out and gain adequate visibility to the south before exiting the driveway.

KCC County Archaeology – No response received.

Southern Water – Requires a formal application for a connection to the public foul sewer to be made by the applicant or developer and advises that 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. The above should be included as an informative on the decision notice.

Tree and Horticulture Officer – No response received.

DDC Heritage – This is a resubmission. No changes have been made to the proposal, and comments on the heritage impact remain as previously stated. Assessment - This application concerns a site to the rear of a cottage; the cottage was submitted to Historic England for listing and underwent a full assessment, including site visit and consultation with the LPA, but was rejected. This was due to the limited amount of remaining historic fabric and the late C20 alterations that unfortunately confuse the understanding of the building and raise queries over authenticity of the fabric. The assessment has however identified features of the building that are of historic or architectural interest, notably the small scale of the building (one and half storeys), age (C18 or earlier) and the basic timber frame structure and early exterior brickwork. The building is therefore considered to be a non-designated heritage asset as defined in the NPPF.

Paragraph 197 of the NPPF requires the significance of a non-designated heritage asset to be considered in determining a planning application. The proposal seeks to erect a single dwelling to the rear; there will be no loss of the historic building and the key consideration is consequently how the new dwelling impacts on the very modest form of Gore Cottage in terms of scale.

The proposed development is a single storey bungalow situated directly behind the existing dwelling. The plot is not wide, essentially being only slightly greater than the width of the cottage. The proposed new vehicle access will potentially provide a view of the new dwelling but at a distance of 10m behind the cottage the visual impact is unlikely to be harmful, particularly if suitable landscaping is required.

Recommendation - The scale, design and layout of the proposed new dwelling ensure that it will not be overwhelming within the context, and consequently is not considered to be harmful to the non-designated heritage asset. I would recommend the removal of permitted development rights for further extension (including to the roof) of the proposed dwelling and for any outbuildings to ensure that any future proposals/changes remain sympathetic to the character of the historic building.

#### Third-Party Representations:

14 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 and financial intentions of the applicant/developer are non-material considerations and are not included below.

- Need – most recent houses built on road (pp 17/00267) have not been sold (have been on market for over 2 years and reduced in price). These together with permission for 50 dwellings further down the lane (DOV/17/01114) and 4 permitted (20/01200) constitute plentiful housing stock and planned future stock in the vicinity of the proposed development. Increasing housing stock is not to advantage of village. Plot does not fall within residential allocation in local plan.
- Highways/Traffic/Pedestrian safety – Narrow, dangerous road, no footpaths/pavements, bottleneck. Used by large number of pedestrians, dog walkers, horse riders, cyclists, construction vehicles, buses and coaches, HGV's – increased risk of accidents. Proposal would bring more dangerous road use to this narrow part of the road than it would bring benefits. Concerns regarding speed of vehicle traffic (Parish Council have used speed monitoring in conjunction with KCC – plans in place for speed reduction measures). Concerns that cars will have to reverse up the drive. Issues with congestion of lane, vehicles with driveways and junction with Selson Lane – made worse as permission for 50 houses is implemented and further access at this point would increase difficulties already encountered. Photographs and video of traffic jam in road, as well as photos of visibility splay land/proposed access point over time and newspaper front page detailing concerns over traffic/safety in Gore Lane submitted.
- Concerns regarding boundary wall between proposed access and driveway of Lavender Cottage preventing sight line – removal of this would result in loss of privacy along neighbouring driveway. Lavender Cottage utilises its driveway in full which would prevent line of sight and pose safety issues. Plans for access do not show existing telegraph pole situated where proposed access would be located. Policy DM12 requires access arrangements be assessed with regard to Highway Network. Planning applications that would involve the construction of a new access or the increased use of an existing access onto a trunk or primary road will not be permitted if there would be a significant increase in the risk of crashes or traffic delays unless the proposals can incorporate measures that provide sufficient mitigation. Reference made to Paragraph 109 of NPPF.
- Sight Lines/Land Ownership – Part of site is within neighbouring ownership and they do not agree to alter nor maintain their land in any way to assist with the application. The applicant has approached this neighbour on several occasions asking them to agree to altering their property and having obligations entered onto their land. Tall trees previously along boundary have been felled revealing door on side of Gore Cottage overlooking neighbouring property. Neighbour intends to erect fencing along the entirety of their boundary and carry out other landscaping works and gate across driveway which will mean sight lines cannot be achieved as fencing and planting will obstruct them. Sight lines indicated from existing driveway at Gore Cottage are not sight lines that have been enjoyed by the property previously (due to trees previously in place along boundary). Neighbouring property parks vehicles along full extent of driveway, including area where sight line is proposed. Lines of sight are not achievable at present and neighbours plans for their property will further prevent lines of sight from being achievable.
- Procedure/Notification - Notice (under Section 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015) incorrectly served in paper when neighbouring landowner is known. Notice has not been served on neighbouring landowner (details of owner known as evidenced by being served notice prior to previous application DOV/20/00132). 21 days notification prior to the application being submitted required by S13(7).

Annotation on plans regarding north sight line crossing existing neighbouring drive and notice served is incorrect assertion and relates to previous application. Visibility splays to north of Gore Cottage cross land within title property of Lavender Cottage, rather than unregistered bank/verge -plans submitted. Plan 1 is Land Registry title plan to Lavender Cottage showing sight lines cross boundary line to neighbouring property. Plan 2 is annotated copy of the application plan. Extent of registered title to Lavender Cottage is hatched purple, line of boundary edge of title to Lavender Cottage and neighbouring properties is shown by green line, showing sight lines cross Lavender Cottage. Plan 3 is Land Registry MapSearch showing Lavender Cottage edged in red and coloured pink and annotated to show position of proposed sight lines. Plan 4 annotated highways definition plan to show proposed sight lines in blue and edge of registered land in green, showing sight lines cross registered land. Neighbour is aware of section of unregistered land (bank/verge) which has been dealt with by current and previous owners of Lavender Cottage for 12 years and it is their intention to develop the land in such a way that will be an ongoing obstruction. The neighbouring landowner states they are entitled to be registered as the proprietor of this land and will be making an application to the Land Registry under Schedule 12, paragraph 18 of the Land Registration Act 2002 for first registration and for the land to be registered in their name (reference made to case law regarding factual possession and intention to possess).

- Impact on historic cottage/heritage assets – Property is one of oldest houses in village and new build in garden would detract from its historic integrity. Although not listed, Historic England states “The building is clearly however of local interest as one of Gore’s few surviving historic buildings”. Importance of historic environment recognised in NPPF. Dover District Heritage Strategy – Paragraphs 12.43, 12.74, 12.75, 1.25. Late owner believed Gore Cottage dated back to 13<sup>th</sup> Century and before 1700, mentioned in Domesday book and property shown on Ordnance Survey map from 1872. No mention of significance of heritage assets as part of planning application as set out in s189, 190 and 193 of NPPF. S197 NPPF relates to impact on significance of non-designated heritage asset. Overlooking Grade II Listed Gore Court and Gore Cottage causing material harm (not outweighed by public benefit of new housing). Reference made to S66 and 72 of Planning (Listed Buildings and Conservation Areas) Act 1990 and definition of setting of heritage asset following *Steer v SSCLG* [2017] EWHC 1456 (Admin). Adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Concerns of damage to the existing property if heavy plant machinery used and due to proposed driveway.
- Design – Out of keeping. Application is neither appropriate to its surroundings or locally distinctive and would be wholly incongruous with properties in this location. Would result in urbanising form of development. Visually incongruous and intrusive, not sympathetic. Would not respond well to quality of setting of edge of village location. Would not contribute to an improvement of the character of the area. Harmful to quality and appearance of countryside setting and street scene contrary to Policy DM16. Over intensive form of development within garden area together with close proximity to neighbouring dwellings. Unacceptable loss of landscaping and open space visually harmful to prevailing character of lane and suburban environment. Unsustainable. Would erode the essential spacious characteristics of the existing dwelling on site leaving Gore Cottage with next to no garden. Would detract from established pattern of development within immediate section of Gore Lane contrary to local plan and NPPF. Proposed bungalow is not broadly in line with other development on lower Gore Lane; all adjacent properties are single properties on a long plot – proposal would result in two dwellings being sited on a single plot (contrary to NPPF Paragraph 127). Would inappropriately impinge on the original conceptual layout

of existing cottage and Walnut Tree Cottage. Parking area proposed to rear of Lavender Cottage and adjacent to its garden, sited at higher land level which would not be mitigated by 1.8m fence. Proposed property is elevated and higher than cottage at the front so would overlook the back and dominate the vista from the back and be elevated above neighbouring properties ruining setting. Would result in loss of green space adding another risk to ecosystems. Plot has already been stripped of all its trees and large amount of garden space would be lost.

- Overbearing – Impact of a new house on small plot of land behind the existing cottage (holiday rental) would be overbearing. House being squeezed in behind cottage. Scale of building so close to other buildings would result in oppressive environment. Would impact potential to extend and improve property.
- Impact on residential amenity – negative impact on amenity of adjoining/neighbouring and surrounding residential properties. Would overlook neighbouring properties and gardens where there is currently no overlooking. Inconsistent with NPPF Para. 185. Residential amenity has significant valuable impact on how people use their homes, health and wellbeing. Duty of LPA to support sustainable development. Unneighbourly impact and overbearing. Loss of light to habitable windows. Loss of privacy. Proposed bedroom window on flank elevation of proposal may be visible from neighbouring en-suite bathroom or bedroom overlooking the plot. Concerns regarding proposed location of bin store close to neighbouring properties' seating area and odours
- Precedent – Many large properties in the area have large gardens, allowing development of this kind will set precedent for the future
- Concerns developers may decide to demolish Gore Cottage to allow further development of plot. Concerns that well to rear of property bordering existing drive may collapse if used by plant machinery. Proposal states demolition of existing garage however there is no garage, just 2 sheds.
- Gore Cottage is being used as short term holiday let. Following the case of Moore v Secretary of State for Communities and Local Government [18 September 2012] it can be argued that a material change of use of Gore Cottage has taken place so that the use has shifted from class c3 dwellinghouse to that of commercial leisure accommodation and therefore considered 'sui generis' use. Concerns raised regarding noise and disturbance, refuse/recycling organisation and suggest that the use of the cottage is examined as it would appear to be inconsistent with the enjoyment of the proposed dwelling.
- Contrary to NPPF Paragraphs 11, 120(e), 124(d & e), 130(a & c), 185 and Local Plan policy DM16

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

- 1.1 The application site relates to a detached 1 ½ storey dwelling located on the southeast side of Gore Lane. The dwelling is finished in red brick with black painted timber windows, dormer windows on the front roof slope at first floor level and a combination tiled roof. A two storey extension has been added to the northeast side and during the course of the previous planning application (DOV/20/00132), the dwelling was considered for Listing by Historic England, however was not accepted (discussed further below).
- 1.2 The existing dwelling (Gore Cottage) is set back approximately 2.8m from the highway and has a driveway to the southwest side. The rear garden slopes upwards towards the east and levels off in line with neighbouring properties. The site is bounded by Lavender Cottage to the northeast, 81 Peak Drive to the east and Walnut Tree Cottage to the south.

- 1.3 This section of Gore Lane contains predominantly two storey dwellings, either detached or semi-detached, finished in a range of materials (mostly brickwork or light coloured render). The majority of dwellings on the southeast side of this section of Gore Lane are set back from the highway, generally at higher ground level, with driveways to the front providing off-street parking. Gore Cottage sits much closer to the highway, forward of the main building line and slightly above highway level, and as a result is much more prominent in views along the streetscene.
- 1.4 This application seeks permission for the erection of a detached dwelling with associated parking and boundary fencing and the creation of a vehicle access and associated parking for Gore Cottage (existing garage to be demolished). The bungalow would measure approximately 14.9m in width and 7.8m in depth and would have a barn-hipped roof with eaves heights of approximately 2.7m and 3.9m and a ridge height of 4.9m. There would be two single storey projections to the front, the northernmost measuring approximately 4.8m in width and 2.1m in depth, with a gable roof with a ridge height of 4.1m. The southernmost front projection, which would be set approximately 1.2m in from the main flank elevation, would measure approximately 6.5m in width and 3.9m in depth and would have a gable roof with a ridge height of 4.6m. The dwelling would contain three bedrooms (one with en-suite), family bathroom, and open-plan kitchen/living/dining room. It would be finished in brickwork with a slate roof and grey uPVC windows.
- 1.5 The proposed bungalow would be set approximately 20m from the highway and would have its own access driveway, to the northeast of Gore Cottage. 1.8m tall timber featheredged fencing would be installed on all three site boundaries and would also form the boundary with the sub-divided garden of the existing Gore Cottage (which would retain two parking spaces and the existing driveway to the southwest side). Two parking spaces, together with a turning area, would be provided within the site for the proposed bungalow and a cycle shed and recycle store are also shown within the garden of the proposed dwelling. Throughout the course of the application, amended plans have been submitted (with the majority of changes relating to the proposed vehicle access, including changes to the red line boundary in relation to sight lines and serving notice on the neighbouring occupants) which have been re-advertised accordingly.
- 1.6 The proposed bungalow is the same siting, scale and design as that previously considered under application DOV/20/00132. That application was discussed by Planning Committee Members in February 2021 where the recommendation to grant permission subject to a legal agreement to secure the required visibility splays, was accepted. However, the splays crossed neighbouring land and the legal agreement was not secured. In line with the second part of the recommendation, the application was refused.

## **2. Main Issues**

- 2.1 The main issues for consideration are:
- The principle of the development
  - The impact on the character and appearance of the area
  - Impact on heritage assets
  - The impact on residential amenity

## **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 within the defined settlement confines and the proposed dwelling therefore accords with 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. Again, as the site is located within the settlement confines, the development accords with Policy DM11.
- 2.5 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 (the Housing Delivery Test).
- 2.6 Having regard for the most recent Housing Delivery Test, the Council are currently able to demonstrate a five-year supply. The council have delivered 88% of the required housing as measured against the housing delivery target. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date. The settlement confines referred to in Policy DM1 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. However, the number of dwellings per annum which must now be delivered has increased and as such it is considered that the Policy is in tension with the NPPF, is out-of-date and should carry only limited weight. The blanket restriction to housing outside the settlement confines in Policy DM11 is also considered to be contrary to the NPPF, however the policy accords with the sustainable development objectives of the NPPF and is considered to continue to attract significant weight in the planning balance.
- 2.7 The Council is at 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. 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. At the time of preparing this report, 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.

- 2.8 It is considered that local policies are to a greater and lesser extent in tension with the NPPF, although 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 Character and Appearance of the Street Scene

- 2.9 The site is located within a predominantly residential area and Gore Lane contains dwellings of a mix of designs, materials and heights (although the dwellings are generally two storeys tall). As such, the character of the street scene is considered to be varied. However, there is a strong building line along this section of Gore Lane, which the existing Gore Cottage sits forwards of, however, the proposed bungalow would be more aligned with.
- 2.10 The proposed bungalow would be a single storey in height only and, although set at a higher ground level than Gore Cottage, due to its siting (being set back from the highway in line with neighbouring dwellings) and being a bungalow, it is considered unlikely to significantly detract from the varied character and appearance of the street scene. Views of the site from the wider open countryside would be restricted by the narrow, tree lined Lane and other development to the northwest. As such, it is not considered the development would result in significant harm to the character and scenic beauty of the countryside and wider landscape area, in accordance with Policies DM15 and DM16 and Paragraph 174 of the NPPF. The main views of the site would be when stood directly in front of Gore Cottage. Whilst there would be some views of the proposed dwelling from the southeast, these would be limited by the existing boundary wall and neighbouring garage (as well as planting across the frontage of Walnut Tree Cottage). There would be slightly wider views of the site from the northeast, where Gore Lane slopes downwards, however the main views would be of the proposed driveway and boundary fence, with more limited views of the proposed bungalow itself (due to its siting and the sloping nature of the site). Views of the dwelling from Peak Drive to the northeast, which contains predominantly detached bungalows would be very limited due to the siting of the dwelling and planting within neighbouring gardens.
- 2.11 Chapter 12 of the NPPF, together with the National Design Guide and National Model Design Code, sets out design objectives for development. I consider that the simple design and materials of the proposed bungalow, together with its siting broadly in line with the prevailing pattern of development, would result in a development which would not unduly detract from the character and appearance of the street scene. I consider that the development would function well and would not detract from the overall quality of the area and would be sympathetic to local history by not dominating views of Gore Cottage, in accordance with the objectives of Paragraph 130 of the NPPF. Due to the sloping nature of the site, it is recommended that a condition is imposed requiring cross sections through the site, with floor and ridge levels of the proposed bungalow, to be submitted to demonstrate the anticipated satisfactory relationship in height to Gore Cottage and neighbouring dwellings. The proposed bungalow would be finished in brickwork with a tiled roof. Should permission be granted, a condition is recommended requiring samples of materials to be used in the construction of the external surfaces of the building to be submitted to ensure that the proposed materials would be in keeping with the material palette of the area. Subject to

these suggested conditions, it is considered that the proposed development would preserve the varied character and appearance of the street scene, in accordance with Paragraph 130 of the NPPF.

#### Impact on Heritage Assets

- 2.12 The site is not located within a conservation area, however concerns have been raised in respect of impact on nearby Listed Buildings, including Grade II Listed Gore Court, Grade II Listed Wall to Stables at Gore Court and Grade II Listed Barn SW of Gore Court, all located to the southwest of the site on the opposite side of the public highway. Concerns have also been raised in respect of the impact on Gore Cottage itself, which is considered to be a non-designated heritage asset. Chapter 16 of the NPPF and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out assessment of the impact on heritage assets.
- 2.13 During the course of the consideration of the previous application at the site (DOV/20/00132), Gore Cottage was submitted to Historic England for consideration as to whether the building should be Listed. The report by Historic England sets out that the building is thought to date from C17 or earlier, with multiple subsequent phases, however they did not consider that Gore Cottage survives with a significant proportion of early fabric and therefore it was not recommended for listing.
- 2.14 DDC Heritage has been consulted on this application, noting this was a resubmission. They considered that “the NPPF requires the significance of a non-designated heritage asset to be considered in determining a planning application. The proposal seeks to erect a single dwelling to the rear; there will be no loss of the historic building and the key consideration is consequently how the new dwelling impacts on the very modest form of Gore Cottage in terms of scale. The proposed development is a single storey bungalow situated directly behind the existing dwelling. The plot is not wide, essentially being only slightly greater than the width of the cottage. The proposed new vehicle access will potentially provide a view of the new dwelling but at a distance of 10m behind the cottage the visual impact is unlikely to be harmful, particularly if suitable landscaping is required”.
- 2.15 It is considered that the scale, design and layout of the proposed new dwelling ensure that it will not be overwhelming within the context, and consequently is not considered to be harmful to the non-designated heritage asset.
- 2.16 Consequently, the proposals would not directly affect the non-designated heritage asset, resulting in its conservation. However, due to the proximity to Gore Cottage and proposed works to create an access driveway, the development would result in negligible less than substantial harm to the significance of the non-designated heritage asset. Having had regard to Chapter 16 of the NPPF (particularly Paragraphs 199 and 203) and the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that this negligible harm would be outweighed by the public benefit of the provision of an additional dwelling in a sustainable location, within the confines which would contribute to the 5 year housing land supply. Nevertheless, it is considered appropriate to restrict permitted development rights for outbuildings (Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in the interests of visual amenity and to preserve the setting of the non-designated heritage asset.

2.17 In respect of the impact on other nearby Listed Buildings, those closest in proximity to the site (approximately 50m) are located to the southwest, on the opposite side of the highway at Gore Court (Grade II). Whilst it is acknowledged that the setting of Listed Buildings can be appreciated from a wider area beyond the curtilage of the building itself, in this case, the proposed bungalow, being sited to the rear of Gore Cottage and being a single storey in height and of simple design and materials, is considered to conserve the significance of the Listed Buildings and would not result in harm, either substantial or less than substantial, to the significance of their setting in accordance with Chapter 16 of the NPPF and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Impact on Residential Amenity

2.18 The proposals would be directly visible from a number of surrounding properties and the impact on residential amenity is discussed.

2.19 Lavender Cottage is located to the north of the site, this two storey detached dwelling is set at approximately the same ground level as the proposed bungalow. The neighbouring dwelling has no windows on the flank elevation and no windows are proposed on the north elevation of the bungalow. The existing low level fencing would be replaced by a 1.8m timber featheredged fence which would provide both proposed and neighbouring occupants a good level of privacy between neighbouring gardens. Due to the siting and scale of the proposed bungalow, it is considered the development would be unlikely to result in an unduly overbearing impact on neighbouring amenity. Furthermore, the bungalow would be set approximately 4.2m from the boundary with Lavender Cottage and due to this separation distance and the barn hipped roof of the bungalow, the development is considered unlikely to result in unacceptable overshadowing of the neighbouring property. The proposed driveway and parking area would be located to the north side of the bungalow, adjacent to Lavender Cottage. Whilst the vehicle movements would result in some noise and disturbance, the level of movements associated with a 3 bed bungalow are unlikely to be so harmful that they warrant a reason for refusal. Nonetheless, in the interests of both visual and residential amenity, it is considered appropriate to suggest a condition for details of landscaping (including hard and soft landscaping and finish of the driveway) are imposed. The use of a bound driveway (as opposed to a gravelled driveway) would reduce the noise from movements along the driveway. Subject to this, the development is considered to accord with the amenity objectives of Paragraph 130 of the NPPF.

2.20 Walnut Tree Cottage located to the southwest of the proposed dwelling is a two storey detached dwelling has several windows on the flank and rear elevations. There would be a separation distance of approximately 2.5m between the proposed bungalow and dividing boundary, where a 1.8m timber featheredged fence would be installed. This boundary treatment would provide a good level of privacy between users of the two gardens. The proposed bungalow would have one window on the flank elevation facing towards the neighbouring cottage, which would serve a bedroom. The outlook from the window would primarily be the dividing boundary and flank elevation of the neighbouring properties' garage. Whilst the window may be visible from the upper floor windows of the neighbouring property, due to the separation distance between the two dwellings, on balance, I consider this is unlikely to result in such significant harm to privacy to warrant a reason for refusal. Due to the design and scale of the bungalow, the

development is considered unlikely to result in a significantly overbearing impact and due to the direction of the sun path (the bungalow being located entirely north of this dwelling), the development is unlikely to result in overshadowing to neighbouring amenity. Concerns have been raised in respect of the positioning of recycling storage which could result in smell and disturbance. However, the plan does not specify the location of refuse storage and it is therefore considered appropriate to recommend a condition is imposed requiring details of this to be submitted.

- 2.21 81 Peak Drive to the east of the site, this bungalow is separated by an approximately 1.8m tall fence. The neighbouring bungalow has several windows on the flank (west) elevation (Peak Drive is set at a slightly higher ground level than the site), however there would be a good separation distance between the two dwellings (approximately 20m at its closest point) and as such, the development is considered unlikely to result in undue harm to neighbouring privacy. Due to the separation distance between the two bungalows and the scale and design of the proposal, the development is also considered unlikely to result in harm to privacy in respect of overshadowing or overbearing impact.
- 2.22 In relation to Gore Cottage, the garden of the application property (currently used as a holiday let) would be sub-divided to leave Gore Cottage with a modest garden, and an access driveway would be installed along the northeastern side of dwelling and retained garden. This would be separated by a 1.8m close boarded fence. There are no windows on the flank elevation of this dwelling, however due to its proximity, the use of the access would result in some noise and disturbance to occupants of Gore Cottage. On balance, the number of vehicle movements and level of activity associated with one dwelling is considered unlikely to result in significant harm to the amenity of occupiers of the Cottage. The proposed bungalow would be set at a higher ground level than Gore Cottage, however due to the design and appearance of the bungalow, the development is considered unlikely to result in an unduly overbearing impact (and a condition requiring details of ground levels has been suggested). The closest window to Gore Cottage would serve an en-suite and a condition is suggested for this to be fitted with obscured glazing in the interests of privacy. All other windows on this elevation would primarily overlook the driveway of the proposed dwelling and it is considered the dividing 1.8m boundary fence would adequately preserve the privacy of the neighbouring occupants. The proposed bungalow would cast shadow towards the adjoining garden during the mornings, however, the impact on amenity would be limited by the gable roofs of the front projections of the bungalow, such that the development would be unlikely to result in significant overshadowing to this garden area.
- 2.23 Whilst the proposals may be visible at a distance from other nearby dwellings, due to their siting and scale, they are considered unlikely to harm the residential amenities of other nearby occupants and would accord with the amenity objectives of Paragraph 130 of the NPPF. Nonetheless, in order to preserve the privacy of surrounding residents, it is considered appropriate to impose a condition restricting permitted development rights for Classes B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to control the installation of rooflights and dormer windows.
- 2.24 In terms of the amenities of the proposed occupiers, the proposed three bedroomed dwelling would be of a good size and all habitable rooms would be naturally lit. It would be provided with a private garden to the rear and an area for recycling storage and a cycle shed is shown on the proposed site plan. As

details of refuse storage (including the location of bins for refuse collection) has not been submitted, it is considered appropriate to suggest a condition is imposed in this respect. Subject to this, it is considered that the living conditions of future occupiers would be acceptable and would accord with paragraph 130 of the NPPF.

#### Other Material Considerations

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

- 2.25 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.
- 2.26 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.
- 2.27 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.
- 2.28 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.
- 2.29 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.

#### Impact on Parking/Highways

- 2.30 The vehicle access and parking area to the south of the dwelling would be retained as existing and two parking spaces would be provided for Gore Cottage, in line with the parking provision requirements set out in Policy DM13.

In respect of the proposed dwelling, two parking spaces, together with a turning area (enabling all vehicles to enter and exit the site facing forwards) would be provided. Again, this would accord with the parking provision requirements of Policy DM13.

- 2.31 KCC Highways and Transportation have advised that “plans have been submitted demonstrating the visibility splays. The application red line includes part of the required 2.4 metres x 43 metres visibility splay to the north of the proposed access. If you are content that this enables the provision and maintenance of the splay to be suitably enforced then it would be acceptable. However, I would point out that the splay also appears to cross private land further to the north (the highway boundary is at the edge of the carriageway), and therefore the red line will need to be extended further to encompass the entire splay. Whilst the splay to the south appears to partly encroach on private land I am satisfied that if the splay to the north can be achieved, it will allow a driver to move slightly out and gain adequate visibility to the south before exiting the driveway”.
- 2.32 The Planning Statement submitted in support sets out that a highway search appears to confirm that the verge/bank is not adopted and is unregistered and that the visibility splay runs outside third party land but not wholly within the highway. The applicant has appointed a Planning Solicitor who has advised that “I have now carried out the searches which are attached. I advise that all reasonable steps to ascertain the names and addresses of every person interested in the land (ie the visibility splay) have been taken without ascertaining the ownership of the land and that consequently you should publish a notice in a newspaper circulating in the locality – Article 13 (1) (b) Town and Country Planning (Development Management Procedure) Order 2015”. Consequently, as part of the land within the splay (included within the red line boundary) is unregistered, Certificate D of the application form has been completed, together with a notice under Article 13 which has also been posted in the local newspaper. Whilst a representation received indicates part of the land within the splay is under the ownership of Lavender Cottage and that notice has not been served on the owner of the property, the agent has confirmed that the proposed splay crosses unregistered land and that Certificate D has been correctly issued.
- 2.33 The visibility splay of 2.0m x 43m would be provided on land that is either in the applicant’s control, within the highway or on land that is not registered. Subject to the imposition of a condition securing the visibility splay, it is considered that adequate visibility would be achieved from the proposed access.
- 2.34 In line with the Council’s emerging policy approach and with the sustainable transport objectives of the NPPF (Paragraph 112), it is suggested that should permission be granted, a condition be imposed requiring cabling to be installed to serve one of the spaces associated with the proposed bungalow, to enable the installation of an electric vehicle charging point.

#### Impact on Flood Risk

- 2.35 The application site is located in Flood Zone 1 which has the lowest risk from flooding. Due to the size of the site (less than 1 hectare), a flood risk assessment is not required. Surface water is to be disposed of to soakaways and the development is considered acceptable in this regard.

### Drainage

- 2.36 Southern Water advises that a formal application for a connection to the public foul sewer would need to be made by the applicant or developer. Should permission be granted, their consultation comments will be included on the decision notice as an informative. The application form states the disposal method for foul sewage is via the mains sewer and as such, it is not considered necessary to require further details by condition and the development is acceptable in this respect.

### Trees/Ecology

- 2.37 The site was previously overgrown, however during the course of the previous application was largely cleared of trees and plants within the rear garden and to the northeast side of Gore Cottage. Whilst the removal of trees is regrettable, they were not considered to have been of such quality to warrant a preservation order. No works are proposed to the Scotts Pine (the subject of a TPO) to the southeast of the site, in the neighbouring garden of Walnut Tree Cottage. Landscaping is shown on the proposed block plan and should permission be granted, a condition is suggested for further details of landscaping to be submitted, to include both hard and soft landscaping and a schedule of planting.
- 2.38 In respect of ecology, the site has been previously cleared and, having regard for Natural England's Standing Advice, does not appear to be a suitable habitat for wildlife to reside in.

### Archaeology

- 2.39 The site is located within an area of archaeological potential and KCC Archaeology has been consulted on the application, however no response has been received. In respect of the previous application at the site (DOV/20/00132), they advised that the site lies on the western edge of the village and finds of Romano-British and medieval dates have been found within fields on the opposite side of Gore Lane. As such, given the potential for items of historic importance to be found, a condition for an archaeological watching brief is suggested should planning permission be granted.

### Contamination

- 2.40 Environmental Health have been consulted on the application, however no response has been received. When consulted on the previous planning application at the site (DOV/20/00132) they raised no objection, however recommended that should permission be granted, a condition was imposed requiring any contamination that may be found while the development is being carried out, to be reported to the LPA and for an investigation, risk assessment and any necessary remediation to be carried out. It is considered appropriate to suggest this condition is imposed should permission be granted and that subject to this, the development is considered acceptable in this regard.

## **3. Conclusion**

- 3.1 The application site is located within the settlement confines and the proposed erection of a detached dwelling with associated parking, boundary fence, and the

creation of a vehicle access and associated parking for Gore Cottage is considered acceptable in principle in this location. Having regard to the tilted balance engaged under Paragraph 11 of the NPPF, the proposal in within the settlement boundary, which weighs in favour of the scheme.

- 3.2 There would be restricted views of the proposal from the public highway, however due to the design, siting and scale of the development, it is considered to preserve the varied character and appearance of the street scene. Furthermore, the development is considered to result in no direct harm to heritage assets and the negligible less than substantial harm that would occur would be outweighed by the public benefit of the provision of an additional dwelling in a sustainable location within the confines, weighing in favour of the scheme.
- 3.3 Whilst the use of the proposed driveway would result in some noise and disturbance, for the reasons discussed in this report, on balance, this is considered unlikely to result in unacceptable harm to residential amenity. Furthermore, for the reasons set out in this report, on balance, the development is considered unlikely to result in unacceptable harm in respect of overbearing, overshadowing or harm to the privacy of nearby residents. Concerns have been raised in respect of visibility from the proposed vehicular access, however as addressed in the report, subject to the imposition of a condition to secure the required visibility splays, the development would be acceptable in this regard. Overall, whilst this is a 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.

**g) Recommendation**

**I PLANNING 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/driveway/hardstanding surfaces and schedule of planting)
- (5) cross sections of the site with ridge and floor levels of the proposed bungalow and Gore Cottage
- (6) provision and retention of the parking area with drainage measures
- (7) cables for EV charging points
- (8) details of refuse/recycling storage
- (9) bathroom window on northwest elevation to be fitted with obscured glazing
- (10) removal of permitted development rights for Classes B, C and E of Part 1, Schedule 2 of the GPDO
- (11) archaeological watching brief
- (12) unexpected contamination
- (13) details of provision and maintenance of visibility splays

**II Powers to be delegated to the Planning and Development Manager 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