

a) **DOV/20/01482 - Erection of a detached dwelling, associated parking and provision of a biodiversity enhancement area - Land between 82 and 86 Wellington Parade, Walmer**

Reason for referral – number of contrary views (22)

b) **Summary of Recommendation**

Planning permission be granted, subject to conditions and an obligation (secured through a s.106 undertaking) to secure a financial contribution of £20,000 towards the conservation, restoration and enhancement of the Kingsdown and Walmer Beach Local Wildlife Site.

c) **Planning Policy and Guidance**

Legislation

The combined effect of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) is that planning applications must be determined in accordance with the statutory development plan unless material considerations indicate otherwise.

Development Plan

Core Strategy (2010) - Policies: CP6, DM1, DM11, DM13, DM15, DM16, DM17

Regulation 18 draft Dover District Local Plan

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

National Planning Policy Framework (2021)

Paragraphs 8, 11, 38, 60, 78, 79, 110, 111, 119, 126, 130, 152, 159, 174, 180

d) **Relevant Planning History**

DOV/18/00261 - Installation of a 1.8m high rear boundary fence. Approved

The land adjacent to the south of the application site has an extensive planning history, but that most relevant is:

DOV/12/00770 - Erection of two detached dwellings and construction of a vehicular access. Approved

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

Walmer Parish Council: Conflicting comments in three responses received:

- the committee positively supports the proposal;

- need for a proper access and construction plan to avoid parking issues of construction vehicles on Wellington Parade with the result that vehicles needing to pass have to use the cycle track and footpath potentially causing damage;
- some form of agreement sought for recompense over the potential damage to neighbouring houses caused by the construction of foundations on a shingle base;
- the committee objects as there should be no parking on the beach by contractors' vehicles. There appears to be no proper construction plan; and
- the design of the proposed development not in keeping with other buildings along Wellington parade

Environment Agency: No objections, subject to condition to carry out development in accordance with the submitted flood risk assessment and mitigation measures.

KCC Ecological Service: The site is located within Kingsdown and Walmer Beach Local Wildlife Site (LWS), which contains coastal vegetated shingle. This habitat is also included as a priority habitat under the NERC Act 2006.

Due to the loss of habitat (albeit reported as being un-vegetated, but with the potential to develop into high value priority habitat), compensatory habitat is proposed within the western section of the site. An 'Ecological Mitigation and Enhancement Strategy Report' has been submitted which outlines the retained area and measures to conserve and enhance this area. This includes removal of undesirable species (such as red valerian), sowing of herbs for target species, and installation of bat/bird nesting boxes.

Concerns about the long term viability of these proposals due to being located within the current boundary which may be used as a garden habitat (and unlikely to be managed long-term). To ensure full compensation is provided (including the proposed measures within the site boundary), off-site mitigation within Kingsdown and Walmer Beach Local Wildlife Site (adjacent to the site) should be provided. This should be through a financial contribution for habitat restoration/management measures. The contribution should be agreed with DDC and secured via a Section 106 agreement.

Satisfied that if these measures are secured, appropriate compensation can be achieved.

The ecological baseline and proposed mitigation, as outlined within the submitted ecological report, has been reviewed. This includes measures for avoiding the bird breeding season and avoidance of the reptile habitat. Satisfied with these measures in principle.

The application provides opportunities to incorporate features into the design which are beneficial to wildlife, such as native species planting or the installation of bat/bird nest boxes. Advise that measures to enhance biodiversity are secured as a condition of planning permission if granted. This is in accordance with Paragraph 180 of the Framework "opportunities to incorporate biodiversity improvements in and around developments should be encouraged".

The development includes proposals for new dwellings within the zone of influence (7.2km) of the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site).

DDC to ensure that the proposals fully adhere to the agreed approach within the Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate as necessary additional recreational impacts on the designated sites.

KCC Public Rights of Way: Public Right of Way ED26 passes adjacent to the site. No objection to the erection of a dwelling. Concerns raised with the access to the site during construction, which could have an impact on public footpath ED26, also forming the England Coastal Path. Pedestrian safety is imperative to be considered on this dual road and footpath. A comprehensive construction management plan is required, including to prevent vehicles parking on the public right of way at any time.

Southern Water: Require formal application for a connection to the public foul sewer to be made. Comments made in terms of the adoption or otherwise management of surface water drainage measures.

Public Representations

A total of 22 letters of objection to the proposed development have been received which raise the following comments:

- plans identical to recently constructed neighbouring properties, thus out of keeping with the eclectic mix of the area and lack originality;
- lack of vegetation around the building;
- external wall lights constitute light pollution;
- increased traffic during and after the development;
- impact on biodiversity;
- the local wildlife site supports a population of the Sussex Emerald moth, as well as Bright Wave moth, and other Lepidoptera species. Neighbouring development included conditions regarding on-site mitigation measures and maintained fencing, and a financial contribution;
- potential for direct destruction of Sussex Emerald larvae/pupae;
- habitat restoration should be undertaken. Herbicide has been sprayed on the site to prevent the habitat becoming re-established;
- noise and disturbance during construction and potential impact on foundations of existing properties;
- concerns with safety and impact on unadopted private road during construction;
- a construction management plan is required;
- home could be a holiday let rather than family home;

1. The Site and the Proposal

Site

- 1.1 The application site comprises a rectilinear shaped area of land between No.82 & 86 Wellington Parade, measuring approximately 17.5m wide by 47.5m deep. The falls in level from its front (east) boundary to the rear (west). The site is enclosed by low closeboard fencing, with a five bar gate on the front boundary. The site fronts Wellington Parade (an unadopted road and a public right of way), which runs along the seafront between Walmer and Kingsdown. It is located outside any defined settlement boundary. The site is located within Kingsdown and Walmer Beach Local Wildlife Site (LWS). The site is within walking distance to services and amenities in Kingsdown via accessible walking routes along the seafront.

Proposed Development

- 1.2 Planning permission is sought for the erection of a detached dwelling, associated parking and provision of a biodiversity enhancement area. The proposed dwelling would be split level, to appear as two storey height building from the front and as three storeys to the rear due to the level change of the site. Accommodation is proposed in the roof, served by rooflights.
- 1.3 The house would be set back from the front curtilage boundary in general line with the two adjacent houses, with a wider gated access on the southern side and a walkway between the flank elevation and the northern side boundary.
- 1.4 In terms of appearance, the dwelling would have a natural grey slate roof, grey coloured window frames and fascias, grey weather boarding at first floor level, and white render across the ground floor elevations. To the rear of the proposed residential garden, a 3m deep 'ecological area' (as provided in relation to the adjacent development to the south) would be retained.

2. Main Issues

2.1 The main issues in the consideration of this application are:

- principle of development
- character and amenities of the area
- ecology
- other matters
- planning balance / conclusion

Assessment

Principle of Development

- 2.2 The application site is located beyond the settlement boundary of Kingsdown to the south or Walmer to the north, where Policy DM1 normally seeks to resist such residential development.
- 2.3 However the Core Strategy, which defines/establishes settlement boundaries across the district is dated. Thus as a matter of judgement, it is considered that the evidence base underlying Policy DM1 is out-of-date and the blanket ban on development outside the defined urban confines is inconsistent with the Framework which focusses on protecting important elements of the countryside, where they are present, and not all countryside. As such, the Policy DM1 should carry only limited weight.
- 2.4 Moreover, paragraphs 78 and 79 of the Framework on rural housing provide no support for a blanket prohibition on the provision of housing in the countryside, especially on sites close to or adjoining existing settlements. Relevant too is that the site is not considered 'isolated', being within walking distance of local facilities in Kingdown and accessible to higher tier amenities in Deal and Walmer via cycling and bus services.
- 2.5 Policy DM11 (Location of Development and Managing Travel Demand) seeks to restrict travel generating development to existing urban areas and rural settlement confines unless otherwise justified by development plan policies. In this regard the proposed development, being outside the settlement boundary, is also considered to conflict with Policy DM11. Whilst the aim of Policy DM11 and the Framework are similar – to maximise use of sustainable modes of transport – the blanket restriction of Policy DM11 (to prevent development outside of settlement boundaries) does not follow the approach of the Framework, which instead seeks to actively manage

patterns of growth to support sustainable modes of transport. Therefore, Policy DM11 in the context of the proposed development should also be afforded limited weight.

- 2.6 Policy DM15 seeks to resist development that would result in the loss of, or adversely affect the character or appearance of the countryside, which is broadly consistent with the Framework. However, in light of the limited weight placed on Policy DM1, the qualitative/character focused aspects of this policy are considered most relevant; and in this regard it is considered that residential development on the application site (in principle) can be accommodated without harm to the character and appearance of the 'countryside'. In reaching this conclusion, it is considered that:
- the site forms part of an established row of dwellings along Wellington Parade, which together have an urban / built-up appearance, rather than exhibiting characteristics of a rural or countryside location; and
 - the site closely matches the size and proportions of other residential plots along Wellington Parade and is consistent to that established pattern of development.
- 2.7 Overall, with regard to the limited weight to be placed on Core Strategy Policies DM1, DM11 and DM15 (in relation to the Framework) and other material considerations, it is considered that there is no in principle reason to restrict residential development on the site due to its location outside existing settlement boundaries.

Character and Amenities of the Area

- 2.8 The proposed dwelling would have an orthodox form with a pitched and hipped roof, and symmetrical double fronted arrangement facing towards the sea. But with larger windows, grey window frames and glazed balustrading, along with a contemporary pallet of materials, the dwelling would be a modern take on a traditional approach. The contemporary materials include a combination of weatherboarding and render, which would be appropriate to its beachfront / seaside location.
- 2.9 The proposed dwelling would closely match the form, proportions and appearance of recent, adjacent development, so to continue that established (and sympathetic) character along Wellington Parade.
- 2.10 As to neighbouring residential amenity, the dwelling would be constructed in line with the two adjacent properties and is considered to maintain an appropriate level of outlook or light to those neighbours. Upper floor windows in the side elevations are secondary or to non-habitable rooms and can reasonably be conditioned to be obscure glazed. The front facing balcony at first floor level (facing out to sea) would not provide a materially intrusive level of overlooking to either side neighbour.
- 2.11 As a large single dwelling, future residents would benefit from good internal amenity space and a private rear garden.

Ecology

Local Wildlife Site

- 2.12 The site is located within Kingsdown and Walmer Beach Local Wildlife Site (LWS), which contains coastal vegetated shingle. This habitat is also included as a priority habitat under the Natural Environment and Rural Communities Act 2006.

- 2.13 Whilst within the LWS, the site itself is generally devoid of wildlife with an appearance of it having been carefully managed as a future/prospective site for development.
- 2.14 Paragraph 179b of the NPPF seeks development to promote the conservation, restoration and enhancement of priority habitat sites. Rather than seek to achieve this objective on the application site, which could be of limited success given it is in private ownership, it considered more appropriate in this instance for the development to make a contribution towards the 'conservations, restoration and/or enhancement' of the adjacent LWS that is within the control of Dover District Council.
- 2.15 To this effect, the applicant has agreed to contribution of £20,000. Advice received from officers involved in the management of the LWS is that this amount would contribute towards an enhanced management plan; surveys in respect of the condition of the 'Bright Wave' and 'Sussex Emerald' butterfly species; and management improvements including the removal/treatment of invasive species, scrub clearance, removal and monitoring of fly-tipping, and collection and scattering of seed as appropriate. This contribution is also a benefit of development.
- 2.16 The applicant in its 'Ecological Mitigation and Enhancement Strategy Report' outlines that a 3m deep strip of land across the rear of the site would be retained as a biodiversity enhancement area (with measures to include removal of undesirable species (such as red valerian), sowing of herbs for target species, and installation of bat/bird nesting boxes). Whilst alone this area does not meet the objectives of paragraph 179b, it is nevertheless welcomed in combination with the contribution to enhance the adjacent LWS.

Protected Species

- 2.17 KCC Ecology has reviewed the ecological baseline and proposed mitigation measures, including avoiding the bird breeding season and avoidance of the reptile habitat, and is satisfied that this would avoid harm to protected flora or fauna (as a matter separate to the enhancement of the priority habitat).
- 2.18 The proposed development provides opportunities to incorporate features into the design which are beneficial to wildlife, such as native species planting or the installation of bat/bird nest boxes. KCC Ecology advise that these measures should be secured by condition and would satisfy paragraph 180 in providing "opportunities to incorporate biodiversity improvements in and around developments".

Sandwich Bay and Pegwell Bay

- 2.19 The Conservation of Habitats and Species Regulations 2017, Regulation 63: Appropriate Assessment: All impacts of the development have been considered and assessed. It is concluded that the development 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.
- 2.20 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.

- 2.21 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.
- 2.22 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.
- 2.23 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.
- 2.24 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.

Other Matters

Highways and parking

- 2.25 Sufficient car parking would be provided on site in respect of the proposed dwelling. The development would not cause a material impact on the surrounding highway network or result in overriding safety concerns. Comments from residents regarding the need for a detailed and robust construction management and logistic plans are noted, and such provisions can be secured as pre commencement conditions.

Flood Risk

- 2.26 The site is identified by the broadly defined Flood Map for Planning to be on the boundary between Flood Zones 1, 2 and 3. In this regard the development incorporates design elements including that it would be sited towards the front of the site and on the highest ground level; and whilst a basement is proposed, it would not contain sleeping accommodation. A safe route of escape is available travelling south along Wellington Parade towards Boundary Road. No objection is raised by the Environment Agency, subject to a condition to secure the mitigation measures of the submitted Flood Risk Assessment.
- 2.27 In respect of the sequential test, where sites at least or lower risk of flooding should be considered first for development, the application identifies that the risk of flooding on the site is less than inferred by the EAs mapping and therefore would remain dry during otherwise modelled flood events. This has not been disputed by the EA and on that basis the sequential test is accepted. In regard to the exception test, sustainability benefits to the LWS and those of housing delivery, as well as mitigation measures ensure a safe development, meets its requirements.

3. **Conclusion**

- 3.1 Overall, with regard to the limited weight to be attached to the spatial policies of the Core Strategy and other material considerations in favour of development (including the accessibility of the site within an established row of dwellings), the principle of a new house on the site is accepted.
- 3.2 Against other design, amenity, transport and environmental policies, with regard to benefits of development, the proposal is considered consistent with the Core Strategy and the NPPF.

g) **Recommendation**

I That PLANNING PERMISSION BE GRANTED subject to:

(1) A s.106 legal undertaking to secure a contribution of £20,000 (index-linked) towards the conservation, restoration and enhancement of the Kingsdown and Walmer Beach Local Wildlife Site; and

(2) Conditions to include:

1. Standard time limit
2. List of approved plans
3. Material samples
4. Obscure glazing to above ground side facing windows
5. Ecological enhancements
6. Flood risk mitigation measures
7. Retention of biodiversity enhancement area
8. Hard and soft landscaping
9. Detailed surface water drainage scheme
10. Construction management plan
11. Parking spaces – provision and retention
12. Bin and cycle storage - details
13. EVC Charging point
14. Removal of Permitted Development rights

II Powers to be delegated to the Head of Planning and Development to settle any necessary legal agreements and planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Andrew Somerville