

- a) **DOV/22/00170 – Outline application for a self-build project, for a low impact 3 to 4-bedroom dwelling, using sustainable design and construction methods (with all matters reserved) - Land south-west of Trystar, Ellens Road, Deal**

Reason for Report: Number of contrary views (8)

- b) **Summary of Recommendation**

Planning Permission be Refused.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (2010)

CP1, DM1, DM11, DM13, DM15 and DM16

Regulation 18 draft Dover District Local Plan

The consultation draft of the Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process (early), 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) (NPPF)

Paragraphs 2, 7, 8, 11, 79, 130, 174

Kent Design Guide

National Design Guide

- d) **Relevant Planning History**

04/00052 - Outline application for the erection of a dwelling (all matters reserved) - Refused

21/00003 - Outline application for the erection of a detached dwelling (with all matters reserved) – Refused for the following reasons:

Unsustainable and unjustified residential development in a rural location, with additional vehicle movements and the need to travel by car. Intensification of built form in an area compromising low density sporadic development harmful to the rural character and appearance of the area.

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

Deal Town Council – No objection

Southern Water – No details of disposal of foul drainage provided, information provided for the applicant to find alternative means as there are no public foul and surface water sewers in the area to serve the development.

Kent Highways – The development does not warrant involvement from Highway Authority

Waste Officer – No comments received

Third Party Representations - A total of 8 individuals have commented in support of the proposal with 2 giving the following reasons:

- Great example to others who wish to follow self-build route
- In keeping with other properties in the area

## **1 The Site and Proposal**

1.1 The application site comprises a vacant parcel of land which lies outside of the settlement confines of Deal. The site is surrounded by four dwellings within a radius of 100m (from the centre of the site). To the east lies a single storey dwelling named Trystar, to the west is the pumping station, to the northwest is the dwelling named 'Little Coogee'. Immediately to the southeast is the open stretch of undeveloped land whilst at a distance of approximately 30m from the site boundary is a dwelling named 'April Cottage' and further away to the northeast is another property named 'Cambrian'. All the properties in the vicinity are modest and single storey.

1.2 Access to the site is from Ellens Road, which is a single track metalled rural lane to Alexandra Drive, which runs to the northeast from Ellens Road, and abuts the site on the northeast boundary.

1.3 This application seeks outline planning permission for the erection of a 3/4 bed detached dwelling (all matters reserved). The application is not accompanied by indicative plans other than a block plan with a suggested position of a new dwelling.

1.4 The design and access statement refers to the following:

- The applicants have owned the site for 20 years and have been using as a recreational area for their family planting native hedges and kept honey bees, family get togethers including camping, growing fruit bushes and sapling trees and currently farm small scale vermi composting bins
- The applicant and their family have lived locally for many years. They propose to build the property as a self-build dwelling on a serviced plot of land (as defined in para. 26, 08/02/21 National Custom and Self Build Act 2015) and is supported by Government policy as set out in the Right to Build. They confirm that they have been registered on the Council's Self-Build Register since September 2018.
- They intend to build a quality affordable dwelling using sustainable design and construction methods incorporating green and renewable energy technology. Preferred construction methods would be to use timber or steel framework with hemp or straw bale infill to ensure excellent thermal properties. The overall design and finish will be in keeping with the local vernacular.
- It is envisaged that the garden would incorporate small-scale green projects such as natural beekeeping and vermiculture.

## **2 Main Issues**

2.1 The main issues for consideration are considered to be:

- The principle of the development
- Impact on visual amenity and countryside
- Residential amenity

- Travel Impacts and Highway Safety
- Other matters

## **Assessment**

### **The Principle of the 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 specifically justified by other development plan policies or it functionally requires such a location or is ancillary to existing development or uses.' This site is located outside of the defined settlement confines, is not supported by other development plan policies and is not ancillary to existing development or uses. As such, the application is contrary to Policy DM1.
- 2.4 Policy 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. As stated above, the proposed site is located outside of the settlement confines and is not justified by other development plan policies. The site is located approximately 1 kilometre from the nearest settlement confines of Deal, which would provide the facilities and services and also allow connections to the wider area. While there is access via a footpath to the northeast of Alexandra Drive, this path is not lit, and would not be an appropriate access for pedestrians at night. Furthermore, Ellens Road has no pavements, and no streetlights and would also be unsuitable for use by pedestrians at night. It is therefore considered that occupants of the proposed dwelling would not be able to reach these facilities by more sustainable forms of transport, including walking and cycling therefore relying solely on a car for accessing local facilities and services. The development would not accord with Policy DM11, the degree of harm arising from the infringement with Policy DM11 is considered to be moderate. It is therefore considered that, for the purposes of this application, DM11 should be afforded significant weight.
- 2.5 Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would not meet any of the exceptions listed in Policy DM15. Whilst it is considered that the development may only have a limited impact on the character and appearance of the countryside (discussed in detail later in the report), this alone would be sufficient for a proposal to be considered contrary to DM15.
- 2.6 Policy DM16 states that development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level.
- 2.7 For the above reasons, the development is contrary to policies DM1, DM11 and DM15 of the Core Strategy. It is considered that these policies are also the most important policies for determining the application.

- 2.8 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 7 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (the Housing Delivery Test).
- 2.9 Having regard for the most recent Housing Technical Paper (2021), the Council are currently able to demonstrate a five-year supply. The council have delivered 80% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.10 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver 557 dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry only limited weight.
- 2.11 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF, Paragraph 110 aims to actively manage patterns of growth to support the promotion of sustainable transport. The NPPF also looks to "*create safe and suitable access to the site for all users.*" Given the particular characteristics of this application and this site, it is considered that the use of the site as proposed would weigh against the sustainable travel objectives of the NPPF and would not provide safe and suitable access for pedestrians. Whilst the blanket restriction of DM11 is in tension with the NPPF, given that the policy otherwise reflects the intention of the NPPF to promote a sustainable pattern of development, on balance, it is not considered that DM11 is out-of-date. However, the weight to be afforded to the policy, having regard to the degree of compliance with NPPF objectives in the circumstances presented by this application, is reduced.
- 2.12 Policy DM15 resists the loss of 'countryside' (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside (another blanket approach) is more stringent than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development (Paragraph 174). There is some tension between this policy and the NPPF. In this instance the site's appearance within open countryside does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.
- 2.13 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations in the DPD and incorporates

any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level. As with Policy DM15, this policy is considered to be in some tension with the objectives of the NPPF (particularly Paragraph 174), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced. In this instance the sites appearance within wider landscape character does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.

- 2.14 The Council is in the Regulation 18 or 'consultation' phase of the draft Dover District Local Plan. This is the start of a process for developing a new local plan for the district, replacing in due course the Core Strategy and Land Allocations Local Plan. At this stage the draft is a material planning consideration for the determination of planning applications, although importantly it has little weight at this stage. As the plan progresses, it will be possible to afford greater weight to policies or otherwise, commensurate with the degree of support/objection raised in relation to them during the consultation process. A final version of the Plan will be submitted to the Planning Inspectorate for examination to determine if the Plan can progress to adoption and, if so, the degree to which final modifications will/will not be required. At the time of preparing this report therefore, policies within in the draft plan are material to the determination of the application, albeit the policies in the draft Plan have little weight at this stage and do not materially affect the assessment and recommendation.
- 2.15 Therefore, while it is considered that policies DM1, DM11, DM15 and DM16 are to a greater and lesser extent in tension with the NPPF (2021), for the reason above some weight can still be afforded to the specific issues they seek to address., having regard to the particular circumstances of the application and the degree of compliance with the 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. Having considered the Development Plan in the round, it is considered that the 'tilted' balance set out at Paragraph 11 of the NPPF (2021) should be engaged and applied. As the harm in terms of an unsustainable dwelling in the countryside with no supporting evidence setting out the benefits does not outweigh the harm identified then the application should be refused on these grounds.

#### Impact on Visual Amenity and Countryside

- 2.16 Paragraph 130 (f) of the National Planning Policy Framework 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 National Planning Policy Framework 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'.
- 2.17 The site is outside of the settlement confines and as discussed, is considered to be within the countryside and is therefore subject to Policies DM15 and DM16.
- 2.18 As this is an outline application, with all matters reserved, no formal details have been submitted regarding its design and scale and as such this cannot be considered as part of the assessment. The submission only says that the intention is to adopt methods of sustainable construction, for it to be of 'low impact' and for the design to follow the Kentish vernacular with 3 or 4 bedrooms. However, the landscape surrounding the proposed site is relatively flat. Due to the landscaped

boundaries of the wider site and the siting of the proposal within the site, the proposed dwelling would be unlikely to be highly prominent within the landscape provided that it is of modest proportions both in terms of footprint and bulk and scale. The dwellings in the vicinity are single storey. Dependent on the final design and form, it could therefore be argued that the proposed dwelling would not be visually dominant within the street scene, countryside or wider landscape and could, subject to further details, be considered acceptable in terms of its limited visual impact.

- 2.19 Regard must be had to whether in light of this harm, the proposed development could be acceptable by meeting any of the four criteria listed under Policy DM15 which includes (i) it is in accordance with allocations made in the Development Plan Documents; or (ii) justified by the needs of agriculture; or (iii) justified by a need to sustain the rural economy or a rural community; (iv) it cannot be accommodated elsewhere and it does not result in the loss of ecological habitats). In respect of these matters, the proposed dwelling would be located in a rural location beyond any designated settlement confines. It is not justified by the needs of agriculture. Whilst it is acknowledged that the proposal would provide a short-term economic benefit, by providing employment during the construction phase, it is not considered that it would apply to a sufficient degree to set aside the harm identified. Furthermore, no overriding justification has been provided that demonstrates why it needs to be in this location and why it cannot be accommodated elsewhere.
- 2.20 The topography of the land is relatively flat. By virtue of the siting of the proposal and some screening along the site boundaries, dependent on its built form and design, the proposed dwelling might not be highly prominent in the wider landscape and would be seen together with an isolated cluster of dwellings i.e. whilst the proposed development would erode the character of this part of the countryside by virtue of the introduction of domestication; in respect of the wider landscape, the harm caused may not be considered unacceptable, although this has not been demonstrated in the submission. Therefore, dependent upon the built form and scale of the development it is not considered that it would be likely to cause harm to the wider landscape. As such, the proposed development would not be contrary to policy DM16 of the Core Strategy. In the event that Members of the Planning Committee considered the site to be acceptable for a residential dwelling they might wish to consider imposing a condition to control the scale of the development to single storey only to reduce the visual impact within the landscape.
- 2.21 Overall, the proposal would introduce domestication (within a small cluster of dwellings) to the detriment of the character and appearance of this part of the countryside. The proposal would therefore be contrary to policy DM15 of the Core Strategy and Paragraph 174 of the NPPF.

#### Residential Amenity

- 2.22 Paragraph 130 (f) of the National Planning Policy Framework sets out planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.
- 2.23 The application site shares boundaries with Trystar to the northeast. Whilst details of the siting, scale and design of the dwelling would be dealt with, should the application progress to reserved matters stage, the indicative plans submitted suggest that the dwelling could be sited a sufficient distance from other nearby dwellings to avoid overshadowing/loss of light or an overbearing impact. At reserved matters stage, the design of the dwellings would be considered to ensure the

development would result in no unacceptable harm to privacy and would accord with the objectives of Paragraph 130 of the NPPF.

- 2.24 In respect of the amenity of the proposed occupants, careful consideration would need to be given, should the application progress to reserved matters stage to ensure future occupants of the development would enjoy a high standard of amenity as set out in Paragraph 130(f) of the NPPF.

#### Impact on Travel and Highways

- 2.25 Policy DM11 seeks to restrict travel demand outside of the rural settlement confines and urban boundaries, unless justified by other development plan policies. The proposed dwelling would give rise to additional (albeit modest) travel in a location beyond settlement confines where the Plan restricts such development and as such would be contrary to policy DM11. Furthermore, as there is no pedestrian footpath along Ellens Road, and the nearest bus stop is approximately 1.2 km from the site, occupants of the proposed dwelling would rely on a private vehicle to access facilities and services within Deal.
- 2.26 The Kent Design Guide states in Chapter 3 – Designing for Movement, *“It is particularly important to ensure that pedestrian and cycle routes are safe, secure and convenient; if they are not, people will feel forced back onto the roads resulting in conflict over the use of road space.”* Given the road is a single-track road and unlit, it is not considered that this would be suitable and safe for travel by foot. Given the nature and distance of the walking route, it is very likely that the proposal would encourage travel by car, thereby working contrary to the principles of sustainable travel (paragraph 110) and reduction of pollution objectives of the NPPF. Furthermore, the site is remote from other settlements and villages and surrounded by open countryside and would not enhance or maintain the vitality of the local communities.

#### Other Matters

- 2.27 The applicant has explained that their name is on the Council’s Self-Build Register since 2018. The purpose of this is for Councils to supply sufficient serviced plots for people on their registers by way of ‘development permissions’ to meet the demand on a rolling basis. Notwithstanding this, the purpose of the scheme is to provide opportunities for people to build their own homes. There is no provision to relax planning policies to allow development where it would not normally be acceptable in planning terms.

### **3. Conclusion**

- 3.1 The application site lies outside of the settlement confines, where planning policy strictly controls new development. The proposal doesn’t address any of the exceptions allowed for by policy and as such it is considered to be unacceptable in principle, contrary to Policy DM1 of the Core Strategy. By virtue of its location, the proposal would constitute an unsustainable form of development. The benefits put forward by the applicant in terms of the building having sustainable design credentials has not been substantiated in the submission. Together with the fact that the applicant is on the Council’s Self Build Register is no reason to override the significant and demonstrable harm caused. The proposed development would not benefit from the provisions of paragraph 11 of the NPPF which requires that “decisions should apply a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the

benefits, when assessed against the policies in this Framework taken as a whole". Therefore, the proposal would be contrary to DM1, DM11 and DM15 of the Core Strategy and paragraphs 110 and 174 of the NPPF and as such the proposal should be refused.

**g) Recommendation**

I Planning permission be REFUSED, for the following reasons:

The proposal would constitute unsustainable and unjustified residential development in this rural location, resulting in additional vehicle movements and the need to travel by private car. It would intensify the built form in an area, which comprises low density sporadic development, detracting from and causing harm to the rural character and appearance of this part of the countryside contrary to policies DM1, DM11 and DM15 of the Core Strategy (2010) and paragraphs 110 and 174 of the National Planning Policy Framework (2021).

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

Case Officer

Amber Tonkin