

- a) **DOV/23/00086 – Outline planning permission for the erection of six self and custom-build houses with associated access, car parking, amenity space and landscaping (all matters reserved) – Crofters Lodge, Durlock Road, Staple**

Reason for report – Call-in by Cllr Friend who considers that the location is suitable for development given its proximity to the village

- b) **Summary of Recommendation**

Planning permission be refused

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM11, DM13, DM15, DM16

Draft Dover District Local Plan (March 2023) - The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF. The relevant policies are: SP1, SP4, SP6, SP11, H5, TI1 AND TI13

National Planning Policy Framework (NPPF) (2021): Paragraphs 7, 8, 11, 38, 130-135, 174, 176 - 178, 180

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

DOV/08/00730 – Change of use of strip of land to the north of Crofters Lodge to domestic land, erection of a single storey side and rear dormer extension and erection of replacement porch – Granted.

DOV/07/00678 – Retrospective application for the formation of sand school and erection of a hay store – Granted.

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

Representations can be found in the online planning file; a summary is provided below:

Staple Parish Council – Objects on the basis of there already being adequate housing and highways and infrastructure impacts.

Kent Country Council Lead Flood Authority – No objection to the principle but offered comments at reserved matters stage.

Southern Water - The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS). Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer.

Kent Highway Services – No objections subject to conditions to include detailed design for the vehicle access, visibility splays, bound surface.

Third party Representations: 7 objections have been received and are summarised below:



- 1.1 The application site is situated to the north of Staple and on the western side of Durlock Road adjacent to the settlement confines of Staple. The site lies approximately 190 metres north of 2no Grade II listed buildings, Staple Farmhouse and Thatch Cottage.
- 1.2 The site comprises of a rectangular piece of grass land measuring approximately 0.69 hectares with an existing sand school and is encompassed by post and rail fences, with open countryside and arable fields lying further west. To the north and west of the site lies open countryside with a number of public rights of ways surrounding the site. There is no public footpath along this part of Durlock Road leading into Ash.
- 1.3 Directly adjacent to the site is Crofters Lodge, a chalet bungalow with stables to the rear of the property. The access to this runs adjacent to the property. To the northeast is some sporadic development consisting of two properties.

### The Proposal



Figure 2: Indicative block plan (all matters reserved)

- 1.4 This is an outline application for the erection of self and custom build houses with associated access, car parking, amenity space and landscaping (all matters reserved).



Figure 3: Indicative street scene

## 2. **Main Issues**

2.1 The main issues for consideration are:

- Principle of the development
- Visual impact on the countryside
- Impact on residential amenity
- Highways and Parking
- Flooding and Drainage
- Ecology
- Habitats Regulations

### **Assessment**

#### Principle of Development

2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with 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”. The site is located outside of any settlement confines, the closest of which is the village of Staple, identified in Policy CP1 as being tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community. As such, the application is contrary to Policy DM1.

2.4 Policy DM11 seeks to resist development outside of the settlement confines where 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 2.5km southwest of the village of Ash which would provide the facilities and services. There are no footpaths and limited street lighting, this is not deemed an appropriate access for pedestrians. It is therefore considered that occupants of

the proposed dwellings would not be able to reach these facilities by more sustainable forms of transport, including walking, therefore relying solely on a car for accessing local facilities and services, thus being contrary to policy DM11.

- 2.5 Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would not meet any of the exceptions listed in Policy DM15 and therefore would not comply with the aims and objectives of this policy. Furthermore, whilst the proposed development is for outline permission without all matters reserved, the impact on the character and appearance is discussed below.
- 2.6 Policy DM16 states that development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level. It is considered (further in this report) that the development would result in visual harm to the countryside and would therefore be contrary to this policy.
- 2.7 Having regard for paragraph 11, it is necessary to consider whether the development plan is up-to-date and whether the policies which are most important for determining the application are out-of-date, permission should be granted unless policies in the NPPF for protected areas or assets provide a clear reasoning for refusing the development or where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in NPPF as a whole. A footnote confirms that whether policies are out of date also include instances where the local planning authority cannot demonstrate a five-year housing land supply or where the delivery of housing falls below 75% of the housing requirement in the previous three years.
- 2.8 It is considered that policies CP1, DM1, DM11, DM13, DM15, DM16, are the most important policies for determining this application. For completeness, the tilted balance is not engaged for any other reason, as the council has a demonstrable five-year housing land supply (6.03 years' worth of supply) and has not failed to deliver 75% of the housing delivery test requirement (delivering 88%).
- 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 88% 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 the 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 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 the 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 Staple is classified as a tier 2 settlement within policy SP4 of the Dover District Draft Local Plan, which is suitable for minor residential development or infilling within the settlement confines of a scale that is commensurate with that of the existing settlement. The policy and the confines applicable to the settlements in question are considered to be in line with the sustainable development objectives of the NPPF. There are currently no unresolved objections to the policy. As such and in line with paragraph 48 of the NPPF it is considered that the policy can attract moderate weight in the planning balance. In this instance, the application site is not located within the settlement confines of Staple and is therefore contrary to policy SP4 of the Dover District Council Draft Local Plan.
- 2.15 Policy HE5 of the Dover District Local Plan sets out ‘the council will support self-build and custom house building schemes on housing sites allocated in the Local Plan and on non-allocated windfall development subject to compliance with the other Policies in the Local Plan and where overall this would result in an over-provision of this type of housebuilding when compared to the Councils supply/demand. Within the Dover

Districts Housing Topic Paper 2023, at paragraph 3.16 this sets out 23 plots have been granted planning permission and as such, the requirement has been met. The proposal does not comply with any other policies within the draft Local Plan and if granted, would result in an over-provision of this type of housing and is therefore contrary to policy H3.

- 2.16 In respect of Policy PM1 this aims to achieve high quality design and place making. Criteria's 2 and 3 a) both aim to integrate existing areas that are well connected with all transport modes and prioritises sustainable transport. Whilst promoting forms of development that are walkable and have access to local facilities. The applicant has acknowledged in the transport assessment that there are 'very few facilities in Staple and therefore very limited pedestrian movements are anticipated. Having regard to the position outside of village confines, the lack of public transport, lack of footpath and poor street lighting, the proposal would be contrary to this policy.
- 2.17 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 reasons 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.

#### Character and Appearance

- 2.18 The site is located outside of the settlement confines identified in Policy DM1 and is therefore considered to be within the countryside, subject to policies DM15 and DM16 of the Core Strategy and policy NE2 of the Regulation 19 of the draft Local Plan. These policies seek to prevent development which would result in the loss of, or adversely affect the character and appearance of the countryside and wider landscape area. Furthermore, the NPPF identifies that "decisions should contribute to and enhance the natural and local environment by... recognising the intrinsic character and beauty of the countryside" (Paragraph 174).
- 2.19 In respect of the impact on the character and appearance of the street scene, the indicative plans submitted demonstrate that six dwellings could be accommodated on the site (whilst acknowledging that all detailed matters are reserved). Durlock Road is predominantly linear in appearance, consisting of two storey dwellings and chalet bungalows within the immediate vicinity. That said, approximately 90 metres away is a converted farmstead consisting of oast houses, it is on this basis the applicant has designed a farmstead arrangement which would not be entirely out of character with the local area.
- 2.20 Policy NE2 of the draft Local Plan sets out that particular regard to the landscape character area in which they are located and in particular to the following characteristics the pattern and composition of field boundaries. The application site is surrounded by fields along the western, northern boundaries with grazing land directly opposite. An important element to the character of the area are the undeveloped fields to the west of the application site and further north, which provides a visual reminder that the site is not located within the settlement confines.
- 2.21 Regard has also been had to whether landscaping could help mitigate the visual impact on the countryside. From the review of the proposed site plan (albeit indicative

only), it is understood that a landscape buffer would be provided on all sides of the application site. The proposed development would be two storeys in height with the suggested 'Oast' and 'Milking Shed' being indicated as higher, which would be highly visible and would detract from the undeveloped character of the site from the street scene and wider views, albeit it a landscape buffer is proposed.

2.22 Regard has also been given to the Landscape Visual Impact Assessment with the application. It is noted that various viewpoints have been considered and the varying degree ranging from medium to high pre-mitigation, medium to low post-mitigation impacts have been identified. Whilst the assessment of the harm identified from the views within the LVIA is considered fair, it does not offer a holistic view of the landscape harm caused, for the reasons set out above, and does conclude that the development would cause visual harm.

2.23 In conclusion, by virtue of the location providing a soft transition into the countryside, the proposed development would result in an unjustified form of development and intensify the built development along the edge of the countryside, hereby resulting in harm to the character and appearance of countryside contrary to policies DM15 and DM16 of the Core Strategy and NE2 of the draft Local plan

#### Residential Amenity

2.24 Whilst indicative plans and elevations have been submitted, this is an outline application with all matters reserved for consideration at a later stage. Notwithstanding this, based on the indicative plans submitted, it is considered that there is sufficient space within the site for up to 6 dwellings to be erected. Care would need to be taken with the siting, scale and detailed design of the dwellings (to be assessed at reserved matters stage) to ensure that the dwellings would not result in overlooking or loss of privacy of the neighbouring occupants or have an overbearing impact on neighbouring residential amenity. As set out above, the detailed design of the proposals would be considered at reserved matters stage. The design of the dwellings would need to provide occupants with a high standard of amenity (in line with NPPF Paragraph 130 and Regulation 19 draft Local Plan Policy PM2) and details of boundary treatments, landscaping, refuse and recycling storage should be submitted with any forthcoming application (as this information could otherwise be required by condition).

#### Highways

2.25 The relevant Core Strategy policies are DM11 and DM13. DM11 requires planning applications for development that increases travel demand be supported by an assessment to quantify the amount and type of travel likely to be generated and should include measures that satisfy demand to maximize walking, cycling and the use of public transport. Policy DM13 requires that development provides a level of car and cycle parking which balances the characteristics of the site, the locality, the nature of the proposed development and design objectives.

2.26 The means of access would involve a new entrance off of Durlock Road to serve the site and 14 car parking spaces are proposed throughout the development with 2 visitor parking spaces. From the view of 3rd party representations there is concern over the safety of the road. Having sought advice from KCC Highways and Transportation it is considered that the application has demonstrated that satisfactory visibility (visibility splays) and manoeuvring space (swept path analysis) could be provided without conflict to both enter and exit in forward gear and has no objections



subject to conditions being imposed on any grant of planning permission. The proposed development is therefore considered to comply with the aims and objectives of policies DM13 of the Core Strategy and T13 of the draft Dover District Local Plan.

- 2.27 Policy DM11 as set out above requires that increase in travel demand should be supported by an assessment, the applicant has submitted a Transport Assessment in this regard. However, 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 set out in the principle section of this report, the development is located outside of the settlement confines and not justified by other development plan policies. The applicant has acknowledged that there are limited facilities in Staple and therefore the assumption would be the occupiers of the properties would use the facilities within Ash, which is located approximately 2.5km southwest of the village of Ash. In this part of Durlock Road there are no footpaths and limited street lighting, and the nearest bus stop is approximately 350 metres away. It is therefore considered that occupants of the proposed dwellings would not be able to reach these facilities by more sustainable forms of transport, including walking and cycling, and would therefore be reliant solely on a private car for accessing facilities and services. The development would not accord with Policy DM11, nor policy T11 of the draft Local Plan.

#### Flooding and Drainage

- 2.28 The applicant has provided as part of the application a Drainage and Flood Risk Assessment which sets out that the foul sewage would be disposed of to the mains sewer, whilst surface water would be drained via several soakaways. Kent County Council Lead Flood Authority have raised no objections to this proposal in principle but have requested conditions be imposed on any grant of planning permission.
- 2.29 Due to the size of the site (less than 1 hectare), a Flood Risk Assessment is not required. Furthermore, as the site is within Flood Zone 1, which has the lowest risk of flooding from rivers or from the sea, a Sequential Test is not required, and the proposal is considered acceptable in terms of flood risk.

#### Ecology

- 2.30 Consideration needs to be given to the potential for biodiversity. The proposed development is currently being used for grazing land as such it is considered the potential for biodiversity is considered to be limited. Policy NE1 of the draft Local Plan sets out the development proposals must provide a minimum of 10% biodiversity net gain above the ecological baseline and in accordance with the Biodiversity Net Gain SPD. It is accepted that this is an outline application and as such, this can be dealt with under the reserved matters application.

#### Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.31 The impacts of the development have been considered and assessed. There is also a need to consider the likely significant effects on European Sites and the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.32 It necessary to consider any likely significant effects of the proposed development in respect of disturbance of birds due to increased recreational activity on the Thanet Coast and Sandwich Bay SPA (as a designated European Site).

- 2.33 It is not possible to discount the potential for housing development within Dover district, when considered in-combination with all other housing development, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA.
- 2.34 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 site and the integrity of the site itself.
- 2.35 A Strategic Access Mitigation and Monitoring Strategy (SAMM) has been prepared and adopted by the Council in order to monitor potential impacts on the qualifying bird species for the SPA arising from development in the district and to provide appropriate mitigation through a range of management and engagement methods. This is set out at Policy NE3 of the draft Local Plan, which provides the most up to date scientific knowledge of the issue. The site lies within the 9km Zone of Influence, within which mitigation will be required.
- 2.36 This mitigation comprises several elements, including the monitoring of residential visitor numbers and behaviour to the Sandwich Bay, wardening and other mitigation (for example signage, leaflets and other education). Were the development to be recommended for approval, it would be necessary to secure contribution towards the mitigation, set out in Table 11.2 of the draft Local Plan (as amended).

### **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 and SP4 of the draft Dover District Local Plan. By virtue of its location, the proposal would constitute an unsustainable form of development. The fact that the proposed dwellings would be self-build properties does not add meaningful weight in favour of development, given the council has met the required needs and is no reason to override the significant and demonstrable harm caused. Given that significant and demonstrable harm would be caused which outweighs the benefits, the proposal would not be supported by the provisions of paragraph 11 of the NPPF. Therefore, the proposal would be contrary to DM1, DM11 and DM15 of the Core Strategy, policies SP4, PM1 and TI1 of the draft local plan 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 reason:

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 result in the loss of an important gap separating the built environment and the countryside, 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), policies SP4, PM1, NE2 and TI1 of the draft local plan and paragraphs 110 and 174 of the National Planning Policy Framework (2021).

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

Case Officer

Lucy Holloway