

- a) **DOV/22/00471 - Erection of 4 attached dwellings with undercroft parking and bin stores (existing buildings to be demolished) - 3 Middle Deal Road, Deal**

Reason for report – Number of contrary views (6)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy (2010): CP1, DM1

Draft Dover District Local Plan: 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, SP11, CC2, PM1, PM2, E2, TI13, NE3

National Planning Policy Framework (2021): Paragraphs 7, 8, 11, 60, 130.

National Design Guide & National Model Design Code (2021)

- d) **Relevant Planning History**

19/01339 - Erection of 4no. attached dwellings with undercroft parking and bin stores (existing buildings to be demolished). Refused and dismissed on appeal. In summary, the Appeal Inspector objected to the excessive scale of the building (3 storeys), the bulky roof, the uncharacteristic mansard roof design and the location of the development at the back edge of the footpath. With regard to the impact upon neighbouring buildings, the Appeal Inspector considered that the proposal would not harm the living conditions of No.5.

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

Current Submission

The application proposal has been amended following negotiations with the applicant to reduce the scale and massing of the development and a further round of public consultation has taken place. Against this second round of consultation, the following responses have been received:

Kent Highways: "...this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements..."

Third Party Representations:

Four Representations have been received. Two raise objections, one provides support and the other provides a neutral comment. The objections are summarised below:

- Out of keeping
- Overlooking
- Loss of light

The representation in support of the proposal welcomes the proposed design and positive impact the development would have on the area.

Original Submission

Under the original submission, the following representations were submitted:

Kent Highways: "...this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements..."

Southern Water: Requires an application for a formal connection to the sewer...

Third Party Representations: There were 9 responses in support of the proposal and 4 responses opposing the development.

Deal Town Council: Objected on the grounds of road safety, out of character, over development, lack of green space, height of building, overlooking and impact on infrastructure and flooding risk.

Environment Agency: The response will be reported verbally to the Planning Committee.

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

1.1 The application site relates to a yard and offices occupied by a paving/hard landscaping company situated at the junction of Middle Deal Road and Albert Road. It comprises an existing L-shaped single storey building, and an area of hardstanding used for the storage of vehicles and materials. The surrounding area is predominantly residential, consisting mostly of two-storey properties and characterised by simple terraced housing, with shallow front gardens and ground floor bay windows. There are some semi-detached properties directly to the east of the site featuring deeper front driveways and finished with brick or white render and a bungalow on Albert Road, in close proximity to the site.

1.2 The proposal has been amended from its original submission to take into account the comments of the Officers and their interpretation of the Appeal Inspector's concerns. In addition, the amended scheme introduces habitable accommodation on the ground floor of the properties, which means that the Flood Risk Assessment has also been amended and re-submitted.

1.3 The proposal seeks to erect a two-storey building with a pitched roof. It will be laid out to follow the highway boundary as it turns the corner of Middle Deal Road and Albert Road. The building will accommodate 4 houses, with an under-croft vehicular access at ground floor level - between the ground floor elevations with the upper floors of the building above it. Three of the houses will accommodate up to 2 bedrooms (the floor plans show one bedroom and a home study room per house) and the end house will accommodate 1 bedroom. The two-bedroom houses will have a short rear courtyard garden, with access to a parking space to the rear. All the properties will have cycle and refuge storage facilities.



2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on the character and appearance of the surrounding area
- Impact on residential amenity
- Impact on highway safety
- Impact on flooding
- Impact on ecology/habitats/biodiversity
- Sustainable design

Assessment

Principle of Development

- 2.2 The location of the application site falls within the urban area of Deal and on a previously developed site. As such, the principle of allowing residential development on the site is acceptable and in accordance with the development plan, policy SP4 of the emerging Local Plan. The loss of a broadly interpreted 'employment generating' use of the site would be in conflict with Policy DM2 of the Core Strategy, but this policy is considered to be out of date now and would carry little weight. Similarly, emerging Policy E2 seeks to protect existing sites that are used for employment purposes. Under the previous application the loss of the land as mainly a yard with ancillary offices for residential purposes was not a main issue to address and was considered acceptable in principle.

Impact on Character and Appearance of the Area

- 2.3 The scheme, as amended, has sought to respond to the Appeal Inspector's concerns and reasons for dismissing the previous scheme. The proposal reduces the scale to a two-storey development, with limited accommodation within the roof space, the roof form is a more traditional and less bulky mono-pitched roof (with rooflights in the front roof slope and dormer windows in the rear roof slope), and the building is set back from the back edge of the footpath and with a reduction in overall height.
- 2.4 The scheme is more in keeping with its visual context. The overall scale of the development has been reduced, the roof design is now characteristic of the roof forms and designs of surrounding buildings, and the changes to the scheme reduce the bulky appearance of the previous scheme. Whilst the building is proposed close to, but set back from the footpath, the reduction in height of the building and its less bulky roof form, enable the building to appear as a two-storey development, albeit slightly higher than the development adjacent and opposite, more in keeping with the prevailing visual quality of the street scene.
- 2.5 The proposed materials and architectural articulation would be sympathetic with other nearby buildings.
- 2.6 It is considered therefore that the proposal meets the requirements for high quality design aspired to in the NPPF and Development Plan policies, and it would be compatible with surrounding development and would preserve the visual quality of the street scene. The proposal would meet the requirements of paragraph 130 of the NPPF and policies PM2 and SP4 of the emerging Local Plan.

Impact on Residential Amenity

Existing Occupiers

- 2.7 The Appeal Inspector did not consider that the proposed development caused undue harm to the living conditions of the occupiers of No.5 Middle Deal Road, or occupiers of other nearby properties. Taking into consideration the Inspector's comments, and in view of the scheme's reduction in scale, the proposed scheme, as amended, is suitably separate from the nearest adjacent properties not to

have an overbearing or materially intrusive impact on the degree of light to or outlook from windows in these properties.

- 2.8 The proposed windows in the first-floor rear elevation and the dormer windows in the rear roof slope of the building provide the potential for the occupiers of the proposed dwellings to be able to see into the gardens and windows of nearby, adjacent properties. Whilst there are some windows that are obscure glazed, there are also some that serve bedrooms. The submitted drawings show that the back-to-back distance between these windows and the properties beyond the rear boundary exceed 21m. It also shows that there are angled distances to adjacent properties (including to those to the west), providing acute views from windows to adjacent properties of at least 20/21m. It is considered therefore that the proposal would not result in undue levels of overlooking and loss of privacy for those occupiers of adjacent properties.
- 2.9 The proposal would therefore safeguard the living conditions of the occupiers of adjacent properties, in accordance with paragraph 130 of the NPPF.

Future Occupiers

- 2.10 The future occupiers of these dwellings would benefit from clear glazed windows serving habitable rooms. These would be able to provide a degree of outlook, light and ventilation. The three larger dwellings, which have a bedroom and a home study room, would benefit from a short, private courtyard garden at ground level, with their own car parking space. The smallest property is a one-bedroom dwelling, without a private garden area. Cycle parking spaces are proposed for each dwelling. A separate bin storage area is also provided for the occupiers of the dwellings.
- 2.11 It is considered that in view of the location of the site and its accessibility to the town centre, the proposal is suitably sustainable and should enable the occupiers of the dwellings to have reasonable travel choices.
- 2.12 The proposal meets the technical standards for the size of dwellings and their layouts.
- 2.13 As such, it is considered that the proposed development would be able to provide reasonable living conditions for their future occupiers, in accordance with paragraph 130 of the NPPF and policy PM2 and SP4 of the emerging Local Plan.

Impact on Flooding

- 2.14 Part of the application site lies within the outline of the 0.5% (Flood Zone 3) chance of flooding from the sea in any given year, while the rest lies within the outline of the 0.1% (Flood Zone 2) chance of flooding from the sea in any given year. The application includes the submission of a Flood Risk Assessment. There have been exchanges of correspondence with the Environment Agency, officers and the applicant with regard to the risks and residue risks from flooding. It is now agreed between parties that the location of the site and the proposed development on it meet the requirements of the 'sequential test' for new development within an area at risk of flooding. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. In view of the location of the site in the central part of Deal and the visual benefit of redeveloping the site, the proposal helps achieve wider sustainability benefits.

- 2.15 If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The aim of the exception test should be to demonstrate that the development would provide wider sustainability benefits that outweigh the flood risk, and the development will be safe for its lifetime taking account of the vulnerability of the occupiers of the development, without increasing flood risk elsewhere and, where possible, reducing flood risk overall. There has been a difference of opinion between the Environment Agency and the applicant over meeting the 'exception' test. Further comments from the Environment Agency are anticipated ahead of the Planning Committee meeting and Members will be updated with the detail and outcome of this response.

Impact on Highway Safety

- 2.16 Under the previous application, 19/01339 – highway safety was not raised as a reason for refusal. Neither did the Appeal Inspector identify it as a main issue to determine.
- 2.17 Under that previous scheme, 3 on-site parking spaces were proposed, with the same access location. Under the current application, 3 parking spaces on-site are also proposed, using the same access arrangements.
- 2.18 A vehicle tracking drawing has been submitted with this application, which demonstrates that the proposed 3 car parking spaces to be provided on the site could manoeuvre sufficiently so they could leave the site in a forward gear. This should reduce the overall impact of the scheme on highway safety. Within the town centre, 1 on-site parking space per 2-bedroom house and no parking spaces for a 1 bedroom house are considered to be adequate for this development as the site is in a sustainable location close to amenities and public transport.
- 2.19 Kent Highways do not consider that the proposal warrants their initial input/response.
- 2.20 On the basis that highway safety has not been previously raised as a main issue to determine and the current proposal does not deviate materially from the previous proposal, so as to raise any new highway issues, the proposal is considered to be able to provide a safe and suitable access in accordance with paragraph 110 of the NPPF.

Ecology/Habitats/Biodiversity

- 2.21 Under the previous application, ecology was not identified as a main issue by the Inspector. The existing site does not appear to provide any ecological benefits due to how the site is laid out and developed. As such, there would be no obvious loss in biodiversity, or existence of any protected species with the potential to be affected by the development, and as such the proposal would meet the requirements of paragraph 174 of the NPPF.
- 2.22 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.

- 2.23 Detailed surveys at Sandwich Bay and Pegwell Bay have been carried out. 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 the 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.
- 2.24 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.
- 2.25 Policy NE3 of the Submission Draft Local Plan requires that within 9km of the SPA, all new 'relevant' developments will be required to contribute towards mitigation. Whilst the policy is within an unadopted plan, the evidence base is up to date and must be taken into account. A financial contribution towards mitigating the impact of the proposed additional pitches would be required through a legal agreement to mitigate the harm to the SPA. The applicant has expressed willingness to complete a Unilateral Undertaking to provide a financial contribution.
- 2.26 The proposal does not seek to provide any biodiversity net gain on the site, as part of the proposal. However, and notwithstanding, the layout of the site offers the potential to provide soft landscaping which would provide an element of biodiversity net gain, or at least make the existing provision on the site no worse. As such, the proposal would meet the requirements of Paragraph 174 of the NPPF and Policy NE1 and NE3 of the emerging Local Plan.

Sustainable Design

- 2.27 The proposal includes the submission of an energy efficiency statement.
- 2.28 The statement describes how the proposed dwellings are designed to meet and exceed current building regulations energy efficiency targets and provide highly efficient low carbon dwellings. This is achieved by exceeding the required u-value targets and hence producing A rated dwellings under current SAP assessment regulations.
- 2.29 The materials chosen for the construction all meet or exceed the requirements of fabric standards within the SAP assessment as required by current building regulations.
- 2.30 The dwellings have been designed to allow sufficient natural daylighting, reducing the level of electric lighting required and without increasing glazing to the level where overheating could occur. All proposed lighting within the properties will be low energy lighting in accordance with current building regulations. No external lighting is proposed.

- 2.31 EV charging points are shown and will be installed to allow the use of electric vehicles by residents.
- 2.32 Heating is to be provided with the use of high efficiency gas boilers complying with current building regulations. There is an option to use air source heat pumps, which would meet the proposed changes to the building regulations due in 2025 which is to be fully investigated during detailed design stage.
- 2.33 Ventilation is to be natural ventilation, to meet current building regulations.
- 2.34 The submission demonstrates that the applicant has identified the need to incorporate sustainable design into the scheme. It is considered that the proposal meets the requirements of policy SP1 and CC2 of the emerging Local Plan.

3. Conclusion

- 3.1 The proposal seeks to address the concerns made by the Appeal Inspector. It is considered that the amended scheme addresses the previous concerns, it meets the requirements for making a more efficient use of urban land, and it achieves good place-making and design.
- 3.2 The proposal would safeguard the living conditions of the existing occupiers of adjacent properties and would provide a reasonable standard of accommodation for the future occupiers of the building.
- 3.3 Other elements of the scheme address the requirements for achieving biodiversity net gain, to mitigate the impact upon the conservation status and habitats of the Sandwich Special Protection Area and to meet the requirements for achieving sustainable design.
- 3.4 The location of the application site and the proposed development meet the sequential test for new development within the area at risk of flooding, and Members will be updated as to the final comments of the Environment Agency.

g) Recommendation

- I PERMISSION RESOLVED TO BE GRANTED subject to the completion of the Unilateral Undertaking and the imposition of the following conditions, provided in summary below:
 - i) Three year time period to implement planning permission
 - ii) Development to be carried out in accordance with the approved drawings
 - iii) Provision and approval of details to address Foul Drainage and Surface Water Run-off
 - iv) Provision and approval of materials for the external appearance of the building
 - v) Provision and retention of Car Parking spaces and Cycle Spaces on site
 - vi) Provision and retention of Refuse and Recycling Storage on site
 - vii) Submission and approval of a landscaping scheme and retention thereof.
 - viii) Provision of boundary treatments and retention thereof.
 - ix) Provision of flood resilience measures as identified in the FRA.
 - x) Removal of PD rights for extensions and roof alterations to the properties

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

Case Officer

Vic Hester