

a) **DOV/23/00222 – Erection of 4 dwellinghouses, garages, cycle stores and widening of access road – Warren House, Buckland Lane, Staple**

Reason for report – Number of contrary views (13)

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, SP15, CC2, H2, PM1, PM2, TI1, TI3 and HE1

National Planning Policy Framework (NPPF) (2023): Paragraphs 7, 8, 11, 83, 84, 128, 135, 180, 195-214

Section 72(1) of Planning (Listed Buildings and Conservation Area) Act 1990

d) **Relevant Planning History**

18/00110 - Outline application for the erection of four dwellings (appearance, landscaping, layout and scale to be reserved) – Refused for the following reason:

- *In the absence of information to demonstrate otherwise, the proposed development, if permitted, by virtue of its siting, would result in an incongruous, intrusive, and unsustainable form of development, bringing about significant harm to the character and appearance of the countryside. The proposal would be highly visible within its rural setting. The proposal is therefore contrary to Policies CP1, DM1, DM11, DM15 and DM16 of the Dover Core Strategy and NPPF paragraph 79.*

The decision was upheld on appeal under reference APP/X2220/W/18/3215593. The inspector concluded that the proposal would be harmful to the character and appearance of the surrounding area, and would materially conflict with the aims and requirements of CS policies CP1, DM1, DM11, DM15 and DM16

In dismissing the appeal, the inspector concluded the following:

- The application site is not isolated therefore paragraph 79 (now paragraph 84) does not apply.
- The elevation of the site would result in dwellings which are visible from beyond the site and would likely result in a detrimental impact on the character of both the open countryside and the landscape beyond.
- The quantum of development is at odds with DM11.

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

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

Staple Parish Council – Supports the application but gave no comments.

KCC Highways – Doesn't warrant involvement from the highways authority

Southern Water – Advice provided for the applicant

Senior Natural Environment Officer – Require clarification of proposed hedge removal due to inconsistency with documentation. Agreed with the conclusions provided within the Preliminary Ecological Appraisal.

DDC Heritage – Raises concern with the development due to the density and location of the development and potential impact on the adjacent listed building.

Third party Representations: 8 objections have been received and are summarised below:

- Impact on highway safety from additional cars
- Overdevelopment of the area
- Poor visibility from the access/ exit of the site
- Precedent of building on garden land will be set
- Design of houses is not in keeping with the village
- No footpaths so all travel will be by car
- Impact on nearby listed building

In addition, 13 comments in support of the proposal have been received, and are summarised below:

- Design of the houses compliments other local houses
- Site is secluded and bounded by trees and hedging
- Provide much needed housing in the village
- More houses may result in the buses being reinstated

f) 1. The Site and Proposal

The Site

- 1.1 The application site comprises approximately 0.4 hectares of garden land on elevated ground approximately 1.5 metres above road level. The is located to the west of Buckland Lane. The application site is located outside of the settlement confines of Staple, which runs along the western boundary of the application site.
- 1.2 The northern side of the site is bounded by close board fencing, the eastern and southern boundaries have native boundary hedging. Warren House is opposite a property called Mount Pleasant to the north. To the eastern end is Animal Farm, the Bassetts and a Grade II Thatched listed building – Reed Cottage. To the south is open farmland and Buckland Road which leads to Aylesham. The properties within the immediate area are predominately two storeys detached and semi-detached dwellings that follow a linear building line, with road fronting development and large rear gardens.

The Proposal

- 1.3 The application is a full application for four, 4no. bedroom two storey detached dwellings. Each property would benefit from 2 off road parking spaces with proportionately sized rear gardens.

1.4 The layout of the properties would be as shown on Figure 1, with Figure 2 showing the proposed elevations from The Street, and Figure 3 showing the proposed elevations from Buckland Lane.

1.5 In terms of materials, this would consist of red bricks, tiled roofs, black weatherboarding and grey coloured fenestration. The hedge and trees around the site boundaries are not protected but are proposed to be retained as part of the proposal (as shown in figure 1 below). The design and layout of the scheme will be discussed in more detail in the assessment below.



Figure 1: Proposed Block Plan



Figure 2: Proposed elevations from The Street



Figure 3: Proposed elevations from Buckland Lane

2. Main Issues

2.1 The main issues for consideration are:

- Principle of the development
- Impact on visual amenity and the countryside
- Impact on Heritage assets
- Impact on residential amenity
- Impact on highways and travel
- Impact on Ecology

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 is considered to be partially consistent with the aims of the Framework (including prioritising previously developed land, avoiding the loss of BMV agricultural land, making better use of under-utilised land and buildings, and recognising the intrinsic character and beauty of the countryside), however, it is also identified that Policy DM1 is a product of the level of housing growth of the Core Strategy and is more restrictive than the NPPF which seeks to significantly boost the supply of homes.
- 2.4 The Core Strategy policies and the settlement confines referred to within those policies were devised with the purpose of delivering at least 505 dwellings per annum. In accordance with the Government's standard method for calculating local housing need, the Council must now deliver at least 611 dwellings per annum. Consequently, as a matter of judgement, the evidence base underlying policy DM1 is considered out-of-date. As such, policy DM1 should carry less than full weight.
- 2.5 Policy DM11 seeks to manage travel and states that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. Whilst there is some tension, this policy broadly accords with the NPPF's aim to actively manage patterns of growth to support the promotion of sustainable transport. However, the

blanket approach to restrict travel generating development outside of settlement confines is inconsistent with the NPPF. This policy is not considered to be out-of-date, but the blanket restriction within the policy does attract reduced weight.

- 2.6 Given the importance of policy DM1, the relationship between policy DM1 and DM15, and the tension between policy DM11 and the Framework, it is considered that the 'basket of policies' in the Core Strategy which are most important for determining applications are out-of-date and should be given less than full weight.

Tilted Balance

- 2.7 Notwithstanding the primacy of the development plan, Framework paragraph 11(d) states that where the policies which are most important for determining the application are out of date permission should be granted unless (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (known as the 'tilted balance') or (ii) specific policies in the Framework indicate that development should be restricted.

- 2.8 As set out above, the tilted balance would, ordinarily, be engaged due to the most important policies being out of date. However, paragraph 11 (i) states that the tilted balance is disengaged where "the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area". Footnote 7 confirms that this includes instances where the development would be contrary to policies in the framework relating to designated heritage assets. As set out later in the report, it is concluded that the development would result in harm to the significance of designated heritage assets.

- 2.9 It must also be noted that the tilted balance is not engaged by reason of the council's housing land supply or housing delivery positions. The council is able to demonstrate a housing land supply in excess of four years' worth of housing supply and the council's Housing Delivery Test measurement is currently 88%.

Draft Local Plan

- 2.10 The Draft Local Plan currently carries some weight in decision making. However, in accordance with Framework paragraph 48, given there are objections to relevant spatial and housing allocation policies of the Draft Local Plan, full weight cannot yet be afforded to its overall strategy of meeting the district's housing needs. However, it is concluded that the draft policies do carry some weight at this stage. The most relevant draft policies are listed below.

- 2.11 Draft policy SP1 seeks to ensure development mitigates climate change by reducing the need to travel and draft policy SP2 seeks to ensure new development is well served by facilities and services and create opportunities for active travel. Draft policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes.

- 2.12 Draft policy SP4 applies to proposals for residential development on unallocated sites and sites outside settlement confines. The policy is regarded as being consistent with the NPPF and moderate weight can be given, as a material planning consideration. The draft policy sets out the appropriate locations for new windfall residential development. The policy is underpinned by an up-to-date

aspect of sustainable development, creates better places in which to live and work and helps make development acceptable in communities.”

- 2.16 The NPPF also states that planning decisions should ensure that developments ‘will function well and add to the overall quality of the area’, be ‘visually attractive as a result of good architecture, layout and appropriate and effective landscaping’, be ‘sympathetic to local character and history’ and ‘establish or maintain a strong sense of place’ (paragraph 135).
- 2.17 This NPPF further states “*decisions should contribute to and enhance the natural and local environment by... recognising the intrinsic character and beauty of the countryside*” (Paragraph 180).
- 2.18 The site is located outside of the settlement confines identified in Policy DM1 and is therefore considered to be within the countryside. As such, Policies DM15 and DM16 are engaged. 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.
- 2.19 The application site lies immediately adjacent to area D3 of the Dover District Landscape Character Assessment (2020): Staple Farmlands. The key characteristics of the area are identified as follows:
- Gently undulating land
 - Long open views
 - Little tree cover and open arable land
 - A limited settlement pattern of isolated historic farmsteads
 - Narrow rural lanes
 - Native hedgerows
 - Mixed buildings; minor roads; footpath network
 - A distinctive vernacular of redbrick, flint and render
- 2.20 Policy DM15 seeks to protect the countryside. Development will only be permitted if it is in accordance with allocations made in the development plan, is justified by the needs of agriculture, or justified by a need to sustain the rural economy or a rural community. In addition, it must be shown that development cannot be accommodated elsewhere and does not result in the loss of ecological habitats. This application is not submitted on the basis of agricultural need; it is not in accordance with any allocations and is not required to sustain a rural economy or rural community. Therefore, the proposal is considered not to be in accordance with policy DM15. Whilst not considered to be out of date, policy DM15 is considered to carry reduced weight.
- 2.21 DM16 states that development that would harm the character of the landscape will only be permitted if it is in accordance with allocations made in the development plan, incorporating any necessary mitigation; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate impacts to an acceptable level.
- 2.22 The Landscape Impact assessment, outlined above, recognises the open character of the area. In terms of management policies within the Dover District Landscape Character Assessment (2020), the document sets out that proposals should conserve and respect the character and pattern of historic built form and conserve the open landscape and avoid the introduction of large scale or incongruous elements.

- 2.23 The pattern of nearby development is sporadic and of low density, with linear road fronting development and large rear gardens. This proposal would alter the grain of development at the edge of this village resulting in four large dwellings built across the entire site, including with driveways, parking, domestic paraphernalia, the proposal would fail to conserve and respect the open landscape and the pattern of development of the surrounding area.
- 2.24 In terms of visual harm, due to the elevated level of the application site, the proposal would be visible from the junction of Buckland Lane and The Street. Whilst there is currently boundary hedging around the site, this would need to be managed and will not in itself screen the development of the site proposed here.
- 2.25 Under the previous appeal, the inspector referenced the screening of the site and the elevated position of the land and concluded that the screening would not be sufficient to prevent “*a detrimental impact on the character of both the open countryside and land beyond.*”
- 2.26 While it is acknowledged that the previous application was for Outline Permission only, the conclusion of the appeal particularly noted the impact on the countryside and rural area: “*the proposal would be harmful to the character and appearance of the surrounding area, and would materially conflict with the aims and requirements of CS policies CP1, DM1, DM11, DM15 and DM16*”
- 2.27 Therefore, the proposed development, by virtue of creating a cluster of 4no dwellings, together with surfaced accesses, parking areas, enclosures and domestic paraphernalia, would introduce an urbanising development in this location. The development would erode the rural character and appearance of this location, contrary to the aims and objectives of the NPPF, the Core Strategy and the Draft Local Plan.

Impact on Heritage Assets

- 2.28 The application site is adjacent to Reed Cottage to the southeast, which is a Grade II listed building. Paragraph 200 of the NPPF (2023) requires an applicant to describe significance of any heritage assets affected by a proposal, including any contribution made by their setting. While a design and access statement has been submitted as part of the application, this does not describe, nor assess the potential impact of the development on the adjacent listed building.
- 2.29 Views of the listed building are prominent when travelling north along Buckland Lane which is a single-track lane, towards the application site. Due to the location of Reed Cottage sitting immediately adjacent to the roadside, there are intimate views of the cottage possible from within Buckland Lane.
- 2.30 The narrow lane, combined with the dense green vegetation allows Reed Cottage to be read in isolation and as a building with strong rural context. The application site in its current form contributes to the rural context of Reed Cottage due to its undeveloped nature and strong green boundary.
- 2.31 The density of the proposed development, and its location within the plot immediately adjacent to the corner closest to Reed Cottage will result in a visually dominant development due to the height difference, which will negatively impact upon the significance of the Grade II listed building. The harm to the listed building is considered to be less than substantial.

- 2.32 Paragraph 208 of the NPPF (2023) states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The land is currently vacant and contributes to the rural context of the listed building. The development of 4 no. dwellings would result in public benefit, in so far as it would provide 4 additional houses. This benefit is not considered significant so as to outweigh the harm to the setting of the listed building.
- 2.33 The proposal is therefore considered to be contrary to Paragraphs 135 and 208 of the NPPF (2023) and draft policy HE1.

Impact upon Residential Amenity

- 2.34 The application site sits to the southeast of the built development of Staple. Due to the location of the proposals and separation distance to existing residents, there would be no impact to neighbouring properties, preserving the existing level of residential amenity.
- 2.35 In respect of the residential amenity of the future occupiers of the properties, the proposed dwellings contain 4 bedrooms, with each property varying in the formation of living arrangements to the ground floor to include separate living and dining spaces, and a study. Each property has 2 allocated parking spaces, and large gardens.
- 2.36 It is therefore considered that the proposed occupiers would have a good standard of amenity in line with Paragraph 135 of the NPPF and PM2 of the Draft Local plan.

Highways and Travel Impact

- 2.37 Policy DM11 of the Dover Core Strategy sets out that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. As outlined above, the proposal is not justified by other development plan policies. The proposals are therefore contrary to DM11.
- 2.38 For the purposes of NPPF Paragraph 84, the site is not considered to be isolated. However, paragraph 83 of the NPPF states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It is considered that the proposed site would be contrary to paragraph 83 due to the very limited range of facilities within Staple and the distance to nearest sustainable settlement at Ash, which is over 2km from the site (as the crow flies). Residents of Staple do not benefit from a regular bus service, therefore in order to reach day to day facilities such as schools, doctors and shops, future occupants of the site would require the use of a private car to travel to the nearest sustainable settlement.
- 2.39 Given the rural location and distance to the nearest sustainable settlement the proposals would be contrary to paragraph 83 of the NPPF as housing on this site would not enhance or maintain the vitality of the nearest settlement and would therefore constitute unsustainable development.
- 2.40 Sustainable transport is further supported within the draft local plan, with draft policy TI1. Most notably within this policy, development should "*Be designed so*

that opportunities for sustainable transport modes are maximised and provided for and provide a variety of forms of transport as alternatives to travel by private motorised vehicle.” The lack of public transport provision with the village as explained above, would result in a reliance on private cars. The development would therefore be contrary to draft policy T11, however it is noted this is only given moderate weight at this time.

Impact on Ecology

- 2.41 The site is a well-maintained garden and having regard to Natural England’s standing advice, is considered unlikely to provide suitable habitat for protected species. This is consistent with the findings of the previous application.

3. Conclusion

- 3.1 The development would result in an unjustified development located in an unsustainable location beyond the settlement confines. In addition, the proposed development due to its siting, scale and density, would result in visual harm to the character of the area. The proposal would also result less than substantial harm to the significance of the Grade II Listed Reed Cottage which is not outweighed by the development. There are no other material considerations that would weigh in favour of the development. Consequently, the proposals would conflict with the overarching aims and objectives of Development Plan policies, the emerging Local Plan and the NPPF and it is recommended that planning permission should be refused. This harm identified above is considered to significantly and demonstrably outweigh the benefits deriving from the provision of four dwellings, when considered against development plan policies and the Framework when read as a whole. Whilst it is concluded that, were the paragraph 11 presumption in favour of sustainable development engaged, the harm would significantly and demonstrably outweigh the benefits, it is considered that the presumption is disengaged by virtue of paragraph 11 footnote 7 of the NPPF and consequently an equal balance should be applied.

g) Recommendation

I PLANNING PERMISSION BE REFUSED, for the following reasons:

- 1) The development would result in an unjustified development located in an unsustainable location beyond the settlement confines, where occupants would be isolated from the facilities and services upon which they would rely. The development would represent encroachment of built form into the countryside and, by virtue of its location, scale and layout, would introduce an urbanising development that would detract from the open rural quality of the area. This would cause visual harm to the character and beauty of the countryside. Consequently, the development would be contrary to Core Strategy policies DM1, DM11, DM15 and DM16, paragraphs 83, 128, 135 and 180 of the NPPF and policies SP4, PM1 and NE2 of the draft Local Plan.
- 2) The proposal, by virtue of its location, scale and layout would cause a loss of openness to the site and a dominant relationship with the Grade II Listed Reed Cottage, resulting in less than substantial harm to the significance of the listed building, which is not outweighed by any public benefits of the development. As such the proposal is contrary to Policies HE1 of the draft Dover District Local Plan and paragraph 208 of the NPPF 2023.

Case Officer

Amber Tonkin

The Human Rights Act (1998) Human rights issues relevant to this application have been taken into account. The Assessment section above and the Recommendation represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).