

- a) **DOV/23/01441– Outline application for the erection of four dwellings with associated parking and landscaping (all matters reserved apart from access) – Eastling Down Farm, Sandwich Road, Waldershare, CT15 5AS**

Reason for report – Number of contrary views (6)

- 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 Draft Dover District Local Plan is being examined. Following the Inspectors' initial advisory letter, consultation on the Main Modifications commenced on 11 April 2024. Whilst that process is not complete and the final report has not been received, there is a high probability that policies will eventually be adopted as originally worded or as proposed to be modified. Therefore, having regard to paragraph 48 of the National Planning Policy Framework, they can generally be given a considerable amount of weight. The relevant policies are: SAP1, SP1, SP4, SP15, CC2, H2, PM1, PM2, TI1, TI3 and HE1

National Planning Policy Framework (NPPF) (2023): Paragraphs 7, 8, 11, 48, 83, 84, 128, 135, 180,

### **Planning History**

91/00931 - Conversion of part of redundant farm building for catering business. – Granted

94/00095 - Continued use of redundant farm building for catering business - Granted

97/00681 - Conversion of outbuildings to consulting rooms – Granted

99/00365 - Change of use of existing workshop/store building to office/warehouse – Granted

11/00048 – Change of use and conversion of outbuilding to cattery and erection of pitched roof - Granted

19/00674 - Construction of a single-storey building to accommodate a hydrotherapy centre for small animals - Granted

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

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

Tilmanstone Parish Council – No comments received

Environmental Health - No Objections

KCC Archaeology - No comments received

KCC Highways – Doesn't meet the criteria to warrant involvement from the Highways Authority.

Southern Water – Information provided for the applicant

Third party Representations: 6 in support of the proposal have been received, and are summarised below:

- Near to all amenities in Whitfield
- On a rural bus route
- Sensitively designed
- Eco-friendly
- Good example of development
- Part of the Whitfield expansion

## **1. The Site and Proposal**

- 1.1 The application site is located to the southwest of Sandwich Road, close to the junction where Sandwich Road meets the A256. The application site is outside of any settlement confines. Eastling Down Farm comprises a detached two storey dwellinghouse, a single storey building used as a cattery, and a number of other former farm buildings.
- 1.2 The application site itself is located to the east of Eastling Down Farm, and is currently used as a Camping and Caravan Site, with a single storey timber clad shower/ w.c and utilities building located in the northwest corner of the site, adjacent to the access road. The site area comprises 0.3ha and is mostly laid to lawn, with extensive tree screening along the southeast and north boundaries of the site.
- 1.3 Access to the site is from the southeast from Sandwich Road. The site is not subject to any local or national designation, other than falling within a groundwater source protection zone (Zone 3).
- 1.4 The application is an outline application for four detached dwellings with all matters reserved except for access. Each property would benefit from 2 off road parking spaces with proportionately sized rear gardens.
- 1.5 The layout of the dwellings would be as shown on Figure 1, with two parking spaces provided per property. The number of bedrooms has not been specified within this application for Outline permission. A proposed site plan has been

included as part of the submission, which demonstrates the location of the proposed dwellings and access to the site from Sandwich Road.



**Figure 1: Proposed layout Plan**

- 1.6 In terms of materials, Plot A would consist of red brick, with a plain clay tile roof and light grey timber framed windows. Plot C would consist of brick at ground floor level, with vertical black timber cladding to first floor and a plain clay tile roof. Lastly, Plots B and D would be finished in vertical black timber cladding, with a metal standing seam roof and dark grey/ black aluminium windows.
- 1.7 The trees around the site boundaries are not protected but are proposed to be retained as part of the proposal (as shown in figure 1 above. The design and layout of the scheme will be discussed in more detail in the assessment below.

## **2. Main Issues**

2.1 The main issues for consideration are:

- Principle of the development
- Impact on visual amenity and the countryside
- Impact on residential amenity

- Impact on highways and travel

## **Assessment**

### Principle of 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. The requirements of the National Planning Policy Framework are a significant material consideration in this regard.
- 2.3 The settlement boundaries for Policy DM1 are shown below in Figure 2. 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.



**Figure 2: Red line denotes settlement confines under DM1.**

- 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 (ii) states that the tilted balance is disengaged where "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". As set out later in the report, it is concluded that the development would be contrary to the aims and objectives of the NPPF.
- 2.9 It must also be noted that the tilted balance is not engaged as set out under Paragraph 11 (footnote 8) 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 106%.

#### *Draft Local Plan*

- 2.10 The submission Draft Local Plan (2023) is considered to be material to the consideration of applications. Following the Inspectors' initial advisory letter, consultation on the Main Modifications commenced on 11<sup>th</sup> April 2024. Whilst that process is not complete, and the final report has not been received, there is a high probability that policies will eventually be adopted as originally worded or as proposed to be modified. Therefore, having regard to paragraph 48 of the NPPF, they can generally be given a considerable amount of weight. The most relevant draft policies are assessed below.
- 2.11 The site is allocated within the Draft Local Plan SAP1 (Whitfield Urban Expansion). This policy requires that a Masterplan be produced to guide the future delivery of the Whitfield urban expansion. This should set out the quantum and distribution of land uses, access, sustainable design and layout principles, in addition to providing an updated phasing and delivery strategy for the whole site. Given the stage of the Draft Local Plan, this policy has not yet been adopted and can be given considerable weight. The Masterplan that is required by the draft allocation policy has not been completed.
- 2.12 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.
- 2.13 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 analysis of services and amenities at existing settlements, taking into account the availability of public transport, retail, community, education and medical facilities. Using this information and current housing requirements, the policy seeks to deliver a sustainable pattern of development, including within the rural area where opportunities for growth at villages (in line with Paragraph 83 of the NPPF) are confirmed.

2.14 The village of Whitfield has a good range of facilities conducive to day to day living. Whitfield is listed under criterion 1, considered to be part of Dover of draft policy SP4, which sets out that minor residential development or infilling of a scale that is commensurate with that of the existing settlement will be permitted within the settlement boundaries. The site is outside of the settlement boundaries set out within SP4, it does not immediately adjoining the settlement boundaries (as shown below), nor is it in accordance with criterion 3 of the draft policy, which sets out exceptions for isolated and non-isolated dwellings. The development of this site



for residential use is therefore not supported by Draft Local Plan policy SP4.

**Figure 3: SP4 Settlement Confines for Whitfield**

2.15 Therefore, while the application site is allocated under draft policy SAP1, the proposed development is considered to be contrary to policies DM1 and DM11 of the Core Strategy 2010, and draft policies SP1 and SP4 of the emerging Local Plan.

Impact on visual amenity and countryside

2.16 The NPPF in paragraph 131 places great importance on the design of new development, stating that “the creation of high-quality buildings and places is fundamental to what the planning process should achieve. Good design is a key

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

- 2.17 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).
- 2.18 The 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).
- 2.19 The site is located outside of, but immediately adjoining 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.
- 2.20 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 National Design Guide advises on good design which needs to reflect the character of its setting and the overall identity of the area. This is further explained in draft policies PM1 and PM2 of the Draft Local Plan which state that all new residential development must be of the highest design quality both internally and externally, to provide a healthy living environment that meets the needs of the people who live there both now and in the future.
- 2.23 The application site, which would be accessed from Sandwich Road would only be visible by glimpse views when travelling along Sandwich Road. Indicative, elevation drawings have been included as part of the Outline application, with the material palette as explained above.



- 2.24 The pattern of nearby development is sporadic and of low density. 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, and would fail to conserve and respect the landscape and the pattern of development of the surrounding area.
- 2.25 In terms of visual harm, due to the location of the proposed dwellings, and the retention of the existing screening around the site, it is considered that there would be some limited visual harm to the wider landscape as a result of the proposals.
- 2.26 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 upon residential amenity

- 2.27 As an outline application with all matters reserved, it is not possible to undertake a full assessment of the potential impacts new dwellings could make on the level of amenity experienced by existing residential properties. However, the proposed layout shows that the nearest dwelling is at least 50 metres away from the nearest residential property, Eastling Down Farmhouse. Furthermore, given the size of the site it is reasonable to consider there is scope to design four properties which would preserve the existing level of amenity or minimise any harm.
- 2.28 It is also noted that the proposed dwellings would form only part of the overall site, leaving a good level of outside amenity space as advised in H2 of the National Design Guide. 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, Parking and Travel impact

##### Parking

- 2.29 Policy TI3 of the Draft Dover Local Plan states that the appropriate provision of car parking is to be provided and retained to meet the needs of local communities both now and in the future. The proposed dwellings would be provided with two off road parking spaces. While the number of bedrooms has not been specified, DM13 of the Core Strategy would seek 2 off-street parking spaces for a 3- or 4-bedroom dwelling in a village location. As each property would benefit from 2no. offroad parking spaces, the proposals therefore comply with the requirement in DM13.

##### Travel

- 2.30 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.
- 2.31 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. The distance to nearest sustainable settlement at Whitfield is approximately 800m from the site (as the crow flies). Residents of the proposed properties would not benefit from a frequent timetabled bus service, however the draft local plan (under paragraph 3.241) notes that consideration is being given to whether the use of alternative bus provision Demand Responsive Transportation (DRT) is being considered to improve rural connectivity.
- 2.32 The hierarchy for transport is to prioritise walking and cycling, then more sustainable forms of transport such as public transport and then the private car. Whilst it is accepted that the existence of a DRT service is beneficial to the rural community, it is considered to carry only limited weight in favour of the development as occupants of the proposed dwellings would still be reliant to making long trips to reach day to day facilities and services such as schools, doctors and shops. It is unlikely that such trips would be made by foot or by bike due to the travel distance and routes which are available.
- 2.33 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.
- 2.34 Paragraph 84 goes on to say that decisions should avoid the development of isolated homes in the countryside, unless one or more of the following circumstances apply; the essential need for a rural worker; the development secures the optimal viable use of a heritage asset; the development would re-use redundant rural buildings and enhance its immediate setting; includes the subdivision of an existing residential building; or is exceptional in design. The site is considered to be isolated and does not meet the criteria set out above and is therefore contrary to Paragraph 84 of the NPPF.
- 2.35 The use of 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 development would fail to prioritise walking and cycling. Whilst providing some access to public transport provision, it is concluded that the development would likely result in a reliance on private cars. The

development would therefore be contrary to draft policy TI1, however it is noted this is only given moderate weight at this time.

### **3. Conclusion**

- 3.1 The development would result in an unjustified development located in an unsustainable location beyond the settlement confines. Whilst some weight is attributed in favour of the development by virtue of the provision of additional dwellings and short term economic benefits during the construction phase, it is not considered that these are unique to this site and they do not weigh heavily 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.

### **4. 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, 84, 128, 135 and 180 of the NPPF and policies SAP1, SP4, PM1 and NE2 of the draft Local Plan.

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).