

PLANNING COMMITTEE – 30 MARCH 2017

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 16/507425/FULL			
APPLICATION PROPOSAL Demolition of 7 farm buildings and erection of 6 detached houses and garages, associated SUDS ponds, landscaping and wildlife planting.			
ADDRESS Land Rear Of Kaine Farm House Breach Lane Upchurch Kent ME9 7PH			
RECOMMENDATION Refuse			
REASONS FOR REFUSAL The proposed development falls outside of the built up area boundary and is not identified as one of the Council's preferred housing allocations within the emerging Local Plan. The emerging Local Plan can now be given significant weight owing to its advanced stage in the examination process. Notwithstanding the contribution that the proposals would make to the five years supply of housing land, the harm caused by this proposal would significantly and demonstrably outweigh the very limited benefits and additionally there would be unacceptable harm caused to the character and amenity value of the countryside. As a result the proposal would not constitute sustainable development.			
REASON FOR REFERRAL TO COMMITTEE Called in by Development Manager for last Committee			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN Upchurch	COUNCIL	APPLICANT Mr T Ripley AGENT Lander Planning
DECISION DUE DATE 20/12/16	PUBLICITY EXPIRY DATE 15/12/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/503169/PNQCLA	Prior notification for the change of use of 1 building from agriculture to form 2 residential units and for associated operational development For it's prior approval to: - Transport and Highways impacts of the development. - Contamination risks on the site. - Flooding risks on the site. - Noise impacts of the development. - Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed.	Prior Approval not required	10.06.2016

	- Design and external appearance impacts on the building.		
SW/10/0123	Lawful Development Certificate for two storey rear extension (Proposed)	Approved	16.02.2010
SW/09/1261	Proposed Lawful Development Certificate for a two storey rear extension off 'original house'.	Withdrawn	01.02.2010
SW/01/1244	Extension to house to form annexe	Approved	20.03.2002
PN/01/0053	Agricultural Notification for the erection of storage building	Prior Approval not required	20.08.2001
SW/95/0391	Transfer of agricultural occupancy condition from Kaine farm bungalow to Kaine farmhouse	Approved	26.06.1995
PN/93/0005	Extension to existing open storage barn	Prior Approval Granted	07.10.1993

MAIN REPORT

1.0 INTRODUCTION

- 1.01 Members will recall that this application was reported to Planning Committee on 2nd March 2017. This report is appended and includes full details of the application site, the proposal, planning constraints, local representations, consultations, policies, background papers and plan, appraisal and conclusion. The application was deferred following the Development Manager calling in the application as the Planning Committee were minded to make a decision that would be contrary to Officer recommendation and contrary to planning policy and guidance.
- 1.02 The purpose of this report is to provide further clarification as to why I believe that the proposals are contrary to policy and therefore unacceptable and to set out the implications that approving the application could have for the Council.
- 1.03 Subsequent to the Planning Committee of 2nd March 2017 the agent has submitted further documents in the form of an additional supporting letter; a drawing showing the distances between buildings on the site and a location plan which shows the site in relation to local services. A further document which provides the agent's view on the Governments Housing White Paper entitled 'Fixing our Broken Housing Market' has also been submitted, however, this has already been submitted prior to the completion of the Committee Report on the 2nd March 2017 Agenda. As clearly stated in the agent's supporting comments, the White Paper does not comprise Government policy, is subject to consultation and does not represent adopted policy. As a result I do not believe that any significant weight should be attached to this and for this reason I do not consider that any detailed assessment of this document should be made at this time. However, I note that the White Paper does state at paragraph 1.24, as the agent refers to in the supporting letter, that pressure on the countryside in terms of residential development should be limited.

2.0 DISCUSSION

- 2.01 As Members will be aware the Council's emerging Local Plan has recently gone through its examination in public. The Council has a claimed five-year land supply position of 5.4 years (2015/16), but this has yet to be confirmed by the Local Plan Examination process. As a result, for the purposes of this application it should be

assumed that the Council is not yet in a position to be able to demonstrate a five-year supply and that the provisions of paragraph 49 of the NPPF should be taken as applying.

2.02 However, as set out in the previous report, due to the advanced stage that the Council has reached in the in the preparation of the Local Plan, although considered out of date by the NPPF, weight can be given to relevant policies for the supply of housing.

2.03 In accordance with the requirements of paragraph 14 of the NPPF, the approach adopted has been to assess the proposal against the NPPF's requirements to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework or taken as a whole. The benefits were identified as follows:

- The contribution towards housing in the Borough and to the 5 year housing land supply;
- Limited contribution towards the economic strand of sustainable development by virtue of the construction phase and increased spending in the local economy.

However, it is considered that these benefits would be offset firstly by the poor and remote location of the site in relation to the closest services and facilities and the likely dependence on the car to reach them. Secondly, the impact of introducing a group of dwellings into this countryside location was considered to be significantly harmful. The conclusion reached was that the proposal would not constitute sustainable development.

2.04 It should be reiterated that the Council has both adopted and emerging policies (that should also be given weight due to the stage that the Local Plan has reached) which intend to protect the countryside against development other than in the circumstances which are clearly set out. Furthermore, paragraph 14 of the NPPF also states that adverse impacts of developments need to be taken into account. This application satisfies none of the criteria within policy E6 of the adopted plan and falls within the least desirable location as set out in policy ST3 of the emerging plan. The Council has taken relevant steps in the emerging Local Plan in order to address the shortfall in housing supply and has identified alternative sites within the Borough which can meet the housing need in a more sustainable way. Therefore, the development of this unsustainable site for housing is unnecessary, the harm outweighs the benefits and as such the proposal fails to be supported by either national or local policies.

2.05 An as an exception to the above is Policy DM9 (Rural exceptions housing) of the emerging Local Plan which sets out the criteria which would need to be satisfied for granting planning permission for affordable housing to meet local needs in rural areas. In addition to this the NPPF encourages local planning authorities to be responsive to local circumstances and to plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. However, putting aside the difficulties that this application would have in complying with criterion 1 of policy DM9 (insofar as the site is not in accordance with Policy ST3 and is not in a location where access to day to day services can be easily and conveniently achieved), this application does not propose any element at all of affordable housing with or without market enabling housing. The result of this would be that the dwellings would be open market housing and therefore the application would not be able to be considered as an exception under this policy.

- 2.06 Without compliance with any of the adopted or emerging local policies or national policies, if this application was to be approved then the very real risk that this would pose would be that large sections of adopted and emerging policy would be undermined unless any material considerations taken into account are strong enough to justify a departure from the development plan and NPPF. The result of this would be twofold. The initial and short term impact would be that this unsuitable site would be developed for housing, to the detriment of the countryside in this specific location. Secondly, by approving an application for residential development on this site a precedent would potentially be created for similar applications on other unsuitable sites throughout the Borough. Therefore, if this proposal is approved then there is the potential that in doing so the principle that this would establish could be used against the Council on other sites, weakening the position that the Council has put itself into by virtue of the steps taken to address the shortfall in housing supply. The result of this could be that further residential development in unsuitable locations causing harm to the character of the Borough would be difficult to resist.
- 2.07 I am also aware of the proposal being referred to in the discussion at 2nd March 2017 Committee as brownfield land. In response to this, firstly, the Planning Statement submitted by the agent in support of the application at paragraph 5.2.21 sets out that the site is not a brownfield site. This is indeed the case and to confirm this I have included in full the definition of previously developed land which is included in Annex 2: Glossary of the National Planning Policy Framework:

“Previously developed land

*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. **This excludes: land that is or has been occupied by agricultural or forestry buildings**; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”*

- 2.08 I have emboldened and underlined the relevant section which would relate to this application. As a result of this it is clear that any planning merits associated with the belief that the site is making use of previously developed land, is in planning terms clearly not the case and as a result I am of the view that this should not be considered to a reason as to why the application would be acceptable.
- 2.09 Furthermore, It is clear to me that the exclusion of agricultural / forestry buildings from the definition is aimed to avoid situations where such buildings, that are necessarily required in the countryside and are sometimes in isolated, unsustainable or sensitive areas, are replaced for uses (such as residential) that do not need to be sited in such locations – and the precedent that this would set given the number and size of agricultural buildings that exist throughout the Borough. I do not consider the existing buildings on this site to be unusually large or different to many other farm complexes in the countryside, and I have particular concern that a precedent would be set if permission was granted.

3.0 CONCLUSION

- 3.01 As set out above, one of the very real risks of approving this application for development which in my view is not sustainable and would cause significant and unacceptable harm to the countryside is the precedent that this would set. The application site is located in the countryside, separated from local services and facilities and as discussed above does not constitute in planning terms previously developed land. To approve this application would result in the Council undermining both its adopted and emerging local plan policies and would establish the principle of development which could equally be applied to a large number of unsuitable and isolated sites around the Borough. If Members were to approve this application then I am of the view that it would need to be clearly stated as to which policy in the local or emerging local plan, or which criteria within the NPPF that the proposal would comply with, or alternatively what material considerations are strong enough to override these policies and to promote a basis as an exception to policy. Failure to do this would establish the principle of residential development on an unknown number of similar sites throughout the Borough where the Council has taken steps through the emerging Local Plan to resist residential development. However, as set out in the original report, and as above, I believe that this proposal is not in compliance with policies at either a local or a national level and that there are no exceptional circumstances to consider approval. As a result I am of the view that the application should be refused.

4.0 RECOMMENDATION – REFUSE for the following reasons:

- 1) The proposals would not represent sustainable development. They would be located away from established settlements in the Borough within the countryside outside the defined built up area boundaries as identified by Local Plan saved policies SH1 and E6 and emerging Local Plan Policy ST3. The proposals would therefore be located as to be poorly served by easily assessable facilities and services and a range of transport options. They would also be harmful to the landscape character and visual amenity of the surrounding countryside. Notwithstanding the contribution that the proposals would make toward the Borough's five-year supply of housing land, the adverse harm arising from the proposals would significantly and demonstrably outweigh the benefits. The proposals would be contrary to policies SP1, SP2, SH1, E1, E6, E9, E19 and H2 of the Swale Borough Local Plan 2008, policies ST1, ST3, CP2, DM14 and DM24 of the emerging Swale Borough Local Plan 2031 (Proposed Main Modifications June 2016), together with paragraphs 14, 17 and 55 of the National Planning Policy Framework
- 2) The introduction of 6 properties, grouped together in this rural setting would be seriously at odds with the surrounding pattern of development and as a result would introduce an alien form of development into this location causing unacceptable harm to the countryside and visual amenities. The proposal is therefore contrary to policies E1, E6, E9 and E19 of the Swale Borough Local Plan 2008 and policies DM14 and DM24 of the emerging Swale Borough Local Plan 2031 (Proposed Main Modifications June 2016).

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.