

# SWALE BOROUGH COUNCIL

## PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

05 June 2014

### Standard Index to Contents

**DEFERRED ITEMS** Items shown in previous Minutes as being deferred from that meeting may be considered at this meeting

**PART 1** Reports to be considered in public session not included elsewhere on this Agenda

**PART 2** Applications for which permission is recommended

**PART 3** Applications for which refusal is recommended

**PART 4** Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

**PART 5** Decisions by County Council and the Secretary of State on appeal, reported for information

**PART 6** Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) Order 1995

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2008

## INDEX OF ITEMS FOR PLANNING COMMITTEE – 05 JUNE 2014

- Minutes of last Planning Committee Meeting
- Deferred Items
- Minutes of any Working Party Meeting

### DEFERRED

Deferred Item 1 Pgs 1 - 34	UPCHURCH	SW/14/0074	Oast Field Stud, Gore Farm Track, Holywell Lane
Deferred Item 2 Pgs 35-41	FAVERSHAM	SW/14/0079	The School Pool, Oare Road
<u>Part 1</u>			
1.1 Pgs 42-44	BOBBING	SW/11/0637	Land at Watermark, Staplehurst Road
<u>Part 2</u>			
2.1 Pgs 45-49	BORDEN	SW/14/0255	59 Wises Lane
2.2 Pgs 50-52	FAVERSHAM	SW/14/0158	10 Cross Lane
2.3 Pgs 53-56	SITTINGBOURNE	SW/14/0501	Wyvern Hall, Central Avenue
2.4 Pgs 57-62	FAVERSHAM	SW/14/0371	Sainsburys Superstore, Bysing Wood Road
2.5 Pgs 63-74	DUNKIRK	SW/13/1250	New Bungalow, Staple Street Road
2.6 Pgs 75-90	DUNKIRK	SW/14/0397	Manor House, Staplestreet Road
2.7 Pgs 91- 95	SHEERNESS	SW/14/0015	Holm Park, St Peters Close
2.8 Pgs 96- 98	FAVERSHAM	SW/14/0455	32 East Street
2.9 Pgs 99-104	MINSTER	SW/14/0195	Kingshill Farm, Elmley
2.10 Pgs 105- 127	TONGE	SW/13/1573	Fowler Welch Coolchain, London Road

### Part 3

<b>3.1</b> <b>Pgs 128- 133</b>	<b>HERNHILL</b>	<b>SW/14/0391</b>	<b>Land Adjacent Acorns, Butlers Hill, Dargate</b>
<b>3.2</b> <b>Pgs 134-168</b>	<b>FAVERSHAM</b>	<b>SW/14/0015</b>	<b>Land at Perry Court, (East of Brogdale Road, West of Ashford Road)</b>

### Part 4

<b>4.1</b> <b>Pgs 169- 172</b>	<b>QUEENBOROUGH</b>	<b>SW/14/0394</b>	<b>Queenborough Primary School &amp; Nursery, Edward Road</b>
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### Part 5

<b>5.1</b> <b>Pgs 173-180</b>	<b>MURSTON</b>	<b>SW/13/0685</b>	<b>Land between 8 &amp; 18 Oak Road</b>
<b>5.2</b> <b>Pgs 181- 183</b>	<b>SITTINGBOURNE</b>	<b>SW/13/1459</b>	<b>9 Saxon Shore</b>
<b>5.3</b> <b>Pgs 184-186</b>	<b>NORTON</b>	<b>ENF/13/0035</b>	<b>The Tractor Shed, Provender Lane</b> <b>Furnishings, Crown Quay Lane</b>

Report of the Head of Development Services

**Deferred Items**

Reports shown in previous Minutes as being deferred from that Meeting.

<b>Def Item 1</b>	<b>SW/14/0074 (Case 18241)</b>	<b>Upchurch</b>
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**Location :** Oast Field Stud, Gore Farm Track, Holywell Lane, Upchurch, Sittingbourne, Kent, ME9 7BE

**Proposal :** Change of use of land to a 1 no. pitch gypsy site (1 no. mobile home, 2 no. touring caravans) with associated foaling boxes and parking bays.

**Applicant/Agent :** Miss K Wilson, C/o Dr Simon Ruston, Ruston Planning Limited, The Picton Street Centre, 10-12 Picton Street, Montpelier, Bristol, BS6 5QA

**Application Valid :** 03 February 2014

**8 Week Target :** 31 March 2014

**Conditions**

- (1) The use hereby permitted shall be for a limited period ending on 5<sup>th</sup> June 2017. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.

Grounds: As permission has only been granted in recognition of the particular circumstances of the case, having regard to the lack of alternative, available sites elsewhere within the Borough, in accordance with DCLG Planning Policy for Traveller Sites.

- (2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Grounds: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (3) No more than one static caravan and two touring caravans shall be stationed on the site at any one time.

Grounds: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (4) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

Grounds: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (5) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Grounds: In the interests of preventing light pollution.

- (6) The area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained within 6 months of the date of this planning permission and shall be retained for the use of the occupiers of, and visitors to, the site, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Grounds: To ensure the use does not prejudice conditions of highway safety and convenience.

- (7) The use hereby permitted shall cease and any caravans, shed, other structures, hard standings, fences, materials and equipment on the site and connected with the use, together with all ancillary vehicles and equipment, shall be removed within 28 days of any one of the following requirements not being met:

- (i) within 3 months of the date of this decision there shall have been submitted for the approval of the Local Planning Authority a landscaping scheme comprising full details of both hard and soft landscape works. These details shall include existing trees, (in particular, specifying the retention of all existing trees along the front boundary of the site), shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

- (ii) within 11 months of the date of this decision the landscaping scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority fail to approve such a scheme, or fail to give a decision within the prescribed period an appeal shall have been lodged and accepted as validly made, by the Secretary of State
- (iii) if an appeal is made in pursuance of requirement (ii) above, that appeal shall have been finally determined and the submitted landscaping scheme shall have been approved by the Secretary of State.
- (iv) all works comprised in the landscaping scheme as approved shall have been implemented, and completed within the timetable set out in the approved scheme

Grounds: In the interests of the visual amenities of the area.

- (8) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area.

- (9) Details of the method of foul sewage treatment shall be submitted for approval to the Local Planning Authority within three months of the date of this decision. These details shall include the site of any individual cesspools and/or septic tanks and/or other treatment systems. Information provided shall specify where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub soil irrigation). The approved details shall be implemented within six months of the date of their approval.

Grounds: To prevent the discharge of unsafe human waste to the surrounding environment.

- (10) No caravans shall be located to the south of the “Line of the proposed flood level” shown on the approved block plan. Any caravans currently located to the north of the “Line of the proposed flood level” shall be removed within 28 days of the date of this decision.

Grounds: To prevent unacceptable development within flood zones 2 and 3.

- (11) The foaling boxes hereby approved shall not be constructed until details of the external finishing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with these approved details.

Grounds: In the interests of good design and the amenities of the area.

- (12) No further development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Grounds: To ensure that features of archaeological interest are properly examined and recorded

- (13) The development hereby approved shall be carried out in accordance with the following approved drawings: "Proposed plans and elevations" received 3<sup>rd</sup> February 2014 and the "Proposed block plans" received 18<sup>th</sup> March 2014. The caravans shall be located in accordance with the drawings in perpetuity.

Grounds: For the avoidance of doubt, in the interests of proper planning, and in order to minimise any impact on the character and appearance of the area.

### **Informatives**

1. The applicants attention is drawn to condition 2 of planning permission SW/03/0235 for the change of use of site from agricultural land to the keeping and grazing of horses with three stables and a hay bam which states "The stables and grazing land hereby permitted shall be for private domestic use and for no other purpose, including leasing to individual occupants, a livery stable or riding school." Therefore, if the applicant intends to use the site for an equine business planning permission for the change of use from private stables would be required.
2. Kent County Council Public Rights of Way Officer wishes to make the applicant aware that planning permission confers no consent or right to disturb or divert the public right of way at any time without the express consent of the Highway Authority. Should the exercise of private rights damage the surface of the public right of way to such an extent that it is unsuitable for public use the proposed residents may be liable to repair the path surface.

### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the applicant was asked to demonstrate their gypsy status to substantiate the terms of the application.

## **Background**

Members will recall this application from when it was discussed at the meeting on 8<sup>th</sup> May 2014, with a recommendation that permanent planning permission should be granted. My report set out the reasoning behind the recommendation and considered, amongst other things, whether the proposed use of the site was acceptable as a matter of principle, the impact of the development on the character and appearance of the countryside and the impact of the proposal on highway safety.

A copy of that report is attached as Appendix A.

A motion was put forward to approve the application but when put to the vote this was lost. A motion was then put forward to refuse the application. At that point, determination of this application was deferred to this meeting by the Development Manager, in accordance with the Terms of Reference of the Planning Committee, since a refusal of planning permission would have been contrary to the officer's recommendation, contrary to policy and guidance. The deferral also enables officers the opportunity to provide additional information to Members to ensure that they have clear and concise advice relating to the further consideration which Members should give as to whether or not temporary planning permission should be granted, and on reasons for refusing the application if Members are so minded to do so; and to provide details and information relating to the Human Rights Act 1998 in relation to gypsies and travellers.

This is presented below. In this report I do not intend to repeat the assessment of the application as set out in the original report. I will though assess the possible implications of a decision to refuse planning permission and confirm my recommendation that permission be granted.

Members should be clear that, whilst the development proposed remains largely the same as the previous applications which were refused planning permission, the *policy* considerations have changed. The applicant has now set out her partner's gypsy status, which Members did not raise issue with at the Meeting, and therefore the previous reasons for refusal are not equally applicable to this application. Members must consider this application on its own merits, having regard to the policies of the Development Plan, and Government policy relating to gypsy/traveller site provision.

At the Meeting, I advised Members that, in my view, amendments could also be made to the suggested conditions. I have therefore taken this opportunity to revise and amend the landscaping condition, and to amend the conditions relating to relocation of the caravans. I have also added a condition making the permission temporary. This matter is discussed below.



As I set out above, this report will provide Members with information relating to whether, if permanent planning permission is not granted, a temporary planning permission should be granted, and commentary on whether the reasons for refusal set out at the Meeting on 8<sup>th</sup> May might stand up to scrutiny at appeal.

### **The requirement to consider whether temporary planning permission should be granted for this development**

My concerns over a possible decision to refuse planning permission for this development is based on the need for planning decisions to reflect a proper assessment of planning policies and other material considerations (Section 54A of the Planning Act) and for Members, when overturning officer recommendations, to present sound, justifiable and defensible planning reasons for refusal related to the likely impact of the proposed development.

I remain firmly of the view that this site is acceptable on a permanent basis for the development proposed. Nonetheless, Members have given consideration to this, and have clearly concluded that permanent planning permission should not be granted.

Following on from this, Members must now give further consideration as to whether temporary planning permission should be granted.

The key issue in this respect, which I am sure Members are familiar with, is the Council's progress towards meeting the requirements of the Government policy document – Planning Policy for Traveller Sites (PPTS). This policy requires the Council to be able to demonstrate a five year supply of available and appropriate sites sufficient to meet the need within the Borough.

The PPTS sets out very clearly that Local Planning Authorities should have regard to, amongst other things, the existing level of local provision and need for sites, and the availability (or lack) of alternative accommodation for the applicants. The policy explicitly states that

*“...if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a **significant material consideration** [my emphasis] in any subsequent planning decision when considering applications for the grant of temporary planning permission.”*

It is clear, then, that Local Planning Authorities are required to provide a 5 year supply of available sites, which would amount to alternatives available for applicants on individual, otherwise unacceptable sites, to relocate to.

It is equally clear that, where a Local Planning Authority cannot demonstrate a five year supply of available sites, it is considered that there is no suitable alternative accommodation available to applicants.

The conclusion from this is that, in the absence of alternative available sites, the Local Planning Authority is required to give very careful consideration as to whether the harm arising from a particular site is so significant that the grant of a temporary

permission would, in itself, be unacceptable, bearing in mind that such harm would only take place over a limited period.

For the avoidance of doubt, this Council does not have a five year supply of suitable, available gypsy/traveller pitches. Under the terms of the government Planning Policy for Gypsy and Traveller Sites, Members are required to give consideration here as to whether temporary planning permission should be granted for this development. I give consideration to this below, with specific regard to the reasons for refusal put forward at the last Meeting.

As to the duration of such a permission, as I set out in my report to the 8<sup>th</sup> May Meeting, the Council is currently progressing with work on the gypsy and traveller Development Plan Document (DPD). It is anticipated that this document will be adopted by the Council in late 2015. The duration of a temporary planning permission should take into account this period, and allow a reasonable period of time subsequent to that, for the applicant to find an alternative site. I therefore recommend that temporary planning permission is granted for a period of three years. This would allow just over a year for the occupiers of this site to relocate, after the adoption of the DPD.

### **The reasons for refusing planning permission**

At the Meeting, prior to the deferral of this item, the following reasons for refusing planning permission were moved:

- The proposal would cause demonstrable harm to the environment;
- The cumulative impact of the proposal with other sites, and the subdivision of land would result in the urbanisation of the rural area; and
- The means of sewage disposal had not been set out.

If Members do consider that the grant of planning permission here is not appropriate, they must be clear that any harm arising from the development would outweigh the significant material consideration set out by the government in relation to the grant of temporary planning permission.

My consideration of each reason for refusing planning permission is set out below:

#### **Demonstrable harm to the environment**

Reasons for refusal have to be precise and complete in themselves, and they have to, amongst other things, be drafted such that the applicant is clear why permission has been refused, and what action they might be able to take to overcome the reason for refusal or what case to make on any appeal submitted.

The impact of development on the environment per se is a material planning consideration, and Members are entitled to take the view that the impact of the development in this respect is such that permanent planning permission should not be granted.

However – the refusal of planning permission on the basis put forward at the Meeting on 8<sup>th</sup> May is drawn too widely, and as such the applicant would be unclear specifically how to address the issue or appeal against it. This could be considered, on appeal, to amount to unreasonable behaviour on the part of the Council, which might give rise to an award of costs. Equally, if Officers are unclear on the precise impact on the environment considered to be unacceptable, it will be difficult to present the Council's case.

The specific nature of the harm to the environment Members consider unacceptable here is unclear. There has been no suggestion throughout the course of the application that the development would harm any ecological interest. Equally, the proposed use of the site is unlikely to give rise to any specific pollution impacts, whether related to air, water or contamination to the land.

Members may have been referring to the visual impact of the development proposed. Whilst the site lies in an undoubtedly pleasant area of countryside, the area is neither locally nor nationally designated for its intrinsic beauty. In addition, the site is well screened from public vantage points. The visual impact of the proposed development is therefore limited.

As I set out above, government policy is clear that the issue of unmet need and a lack of a 5 year supply of alternative, available, suitable sites is a significant material consideration which weighs in favour of the grant of temporary planning permission. In my view, the limited visual impact the development would have is insufficient to outweigh the unmet need for pitches within the Borough, and the lack of a 5 year supply of alternative available accommodation, and as such that temporary planning permission should be granted. In addition, any visual impact arising from the grant of a temporary planning permission, would necessarily be for a temporary period only.

#### Cumulative impact of the proposal with other sites, the subdivision of land and the urbanisation of the rural area

There are without doubt a substantial number of gypsy/traveller sites in the Upchurch area and an argument can potentially be made that this site in conjunction with others would have a harmful cumulative impact on the character and appearance of the countryside. However – there are a number of key points Members must consider in relation to this.

Firstly, if temporary permission was to be granted, any harmful cumulative impact arising from the addition of this site to the other, permanent, sites in the vicinity would be on a temporary basis only. Members must consider whether the cumulative impact of this and other sites, were this site to be granted a *temporary* permission, would be so harmful as to warrant refusal of planning permission. In my view, such harm, on a temporary basis, would not be substantial.

Secondly, whilst there are three other gypsy/traveller sites in the vicinity of this application site, only one (The Paddocks, Holywell Lane) is visible from the application site. The others are some distance away – Hursell Farm is in excess of 200 metres to the north and cannot be seen from the site, and Greenacres is in excess of 300 metres to the north and cannot be seen from this site. In addition,

access to Hursell Farm is down a track accessed from Chaffes Lane. The application site here is down a track accessed from Holywell Lane, and in my opinion the two are unlikely to be considered to be visually linked, or considered in the same context.

Finally, whilst there are these existing, authorised sites in the vicinity, the majority of land remains undeveloped and used for agriculture. I do not consider, on appeal, that an argument made on the basis that the area is becoming urban in character or that this proposal would give rise to a significant number of contiguous gypsy sites, such that the character of the countryside would be eroded, would be successful.

There is already an existing fence which subdivides the field, however this application would not result in the erection of a new fence to subdivide the field in which the development sits. In this regard, Members should be mindful that a means of enclosure could be erected in this field today, without the benefit of planning permission, up to a height of two metres. If Members were so minded, a condition could be imposed removing permitted development rights for the erection of fences and other means of enclosure here.

In my view, the existing limited subdivision of the site, as shown on the submitted drawings, would not be a sufficient reason to refuse planning permission. It would not outweigh the issue of unmet need and lack of supply of alternative sites, which is a significant material consideration, and is not in my opinion a reason for refusal which would be defensible on appeal .

This application proposes one mobile home and two touring caravans. Whilst it can clearly be argued that caravans are not the most aesthetically pleasing of structures, they are commonly seen in rural areas, and it would in my view be difficult to successfully argue on appeal that they amounted to an urban structure, or a structure which contributed to the urbanisation of the countryside. Further to this, the caravans proposed would be grouped together within a fairly large field, the majority of which would remain as grass. Such a development would not appear, in my view, as a harsh and urban form in this countryside location.

The proposal does include the laying of some hardstanding. However – this would be controlled by the landscaping conditions, such that a rural type of material, such as bound gravel or shingle could be used. I am firmly of the view that the development proposed would not be of an urban appearance and I would not recommend that planning permission is refused on such a basis.

#### Means of sewage disposal

This is addressed by condition (9) in the report. Members will note that the Environment Agency has not raised objection. If Members are so minded, this condition could be amended such that it requires a sealed system which would not discharge into the ground. Members have previously agreed that such a condition would be acceptable as a means of dealing with this issue elsewhere, specifically in relation to the land at High Oak Hill/Iwade Road, Newington. Planning permission there was refused, but Members did not add an additional reason for refusal relating to sewage disposal, on a more sensitive site in terms of groundwater, agreeing with

my recommendation that this was not an issue on which planning permission should be refused.

### Human Rights

Members must also be aware of the Human Rights implications of refusing planning permission.

Article 8 of the Human Rights Act 1998, which grants the right to respect for private and family life, is particularly relevant in respect of planning applications such as this. The Article states:

*“1. Everyone has the right to respect for his private and family life, his home and his correspondence.*

*2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”*

The essence of the Act is to ensure that everyone has certain rights, in certain circumstances, which must not be interfered with unless it is demonstrably justifiable in the interests of the public good. In the instance of Article 8 the right to private and family life is undeniable unless it can be shown that it is in the public interest to deny such rights. Refusal of planning permission would therefore be a breach of Article 8 unless it can be clearly demonstrated that there are good reasons for doing so – in the case of the planning system those “good reasons” are the policies that are contained within adopted local and national guidance, and designed to protect the public interest and “greater good.”

There needs to be proportionality between the harm to the greater good that may arise by upholding the individual rights afforded by the Act and the public good in denying those rights.

As above, the Council has a clear policy deficit in regards to the provision of gypsy and traveller sites and cannot demonstrate a five-year supply of available pitches, and this is a significant material consideration as set out by the PPTS. Furthermore I consider that it would be difficult to argue that refusal of *temporary* planning permission would be in the public interest to such a degree as to justify refusal of the applicant’s rights under Article 8, as any harm arising from the development would be removed once the applicant has moved to a more suitable site and the land restored. I am therefore of the firm opinion that there is little medium to long-term public interest / greater good to be found in refusing this planning application.

### **Recommendation**

In my opinion the harm arising from the development proposed would not be substantial, as I set out in my report to the Meeting on 8<sup>th</sup> May.

The Council is unable to demonstrate a five year supply of available sites, does not yet have a site allocation DPD; and would be unable on appeal to point to an alternative site where the occupiers of this site could relocate to. In balancing this against the harm caused, I am firmly of the view that temporary planning permission should be granted in order that at the end of the time period, the applicants will be able to move to a suitably located site that will not give rise to the harm Members consider the proposal gives rise to.

In reaching this conclusion I have also had regard to Article 8 of the Human Rights Act 1998. In view of the above, interference with the human rights of the applicants, by way of refusing planning permission, would not in my view be proportionate, given the limited harm arising from the proposal. Whilst I remain of the view that permanent planning permission should be granted, the Planning Committee has clearly set out that this would not be appropriate. In the absence of a permanent permission, and taking into account my consideration of the issues above, I recommend that temporary planning permission is granted.

### **List of Background Documents**

1. Application papers and correspondence for SW/03/0235, SW/11/0549, SW/12/0334 and ENF/13/0013.

<b>Deferred Item 1 - Appendix</b>
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<b>2.11 SW/14/0074 (Case 18241)</b>
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<b>Upchurch</b>
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**Location :** Oast Field Stud, Gore Farm Track, Holywell Lane,  
Upchurch, Sittingbourne, Kent, ME9 7BE

**Proposal :** Change of use of land to a 1 no. pitch gypsy site (1 no.  
mobile home, 2 no. touring caravans) with associated  
foaling boxes and parking bays

**Applicant/Agent :** Miss K Wilson, C/o Dr Simon Ruston, Ruston Planning  
Limited, The Picton Street Centre, 10-12 Picton Street,  
Montpelier, Bristol, BS6 5QA

**Application Valid :** 03 February 2014

**8 Week Target :** 31 March 2014

**Conditions**

- (1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Grounds: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (2) No more than one static caravan and two touring caravans shall be stationed on the site at any one time.

Grounds: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (3) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

Grounds: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

## Deferred Item 1 - Appendix

- (4) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Grounds: In the interests of preventing light pollution.

- (5) The area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained within 6 months of the date of this planning permission and shall be retained for the use of the occupiers of, and visitors to, the site, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Grounds: To ensure the use does not prejudice conditions of highway safety and convenience.

- (6) Within six months of the date of this planning permission, full details of soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting native species, plant sizes and numbers where appropriate, and an implementation programme.

Grounds: In the interests of the visual amenities of the area.

- (7) All soft landscape works approved pursuant to condition 6 shall be carried out within the first available planting season following their approval, or in accordance with a timetable agreed in writing with the Local Planning Authority.

Grounds: In the interests of the visual amenities of the area.

- (8) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area.

- (9) Details of the method of foul sewage treatment shall be submitted for approval to the Local Planning Authority within three months of the date of this decision. These details shall include the site of any individual cesspools and/or septic tanks and/or other treatment systems. Information provided shall specify where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a



## Deferred Item 1 - Appendix

ditch or watercourse as opposed to sub soil irrigation). The approved shall be implemented within six months of the date of their approval.

Grounds: To prevent the discharge of unsafe human waste to the surrounding environment.

- (10) No caravans shall be located to the south of the 'Line of proposed flood level' shown on the approved block plan within 12 months of the date of this planning permission. The caravans shall remain to the north of this line in perpetuity.

Grounds: To prevent unacceptable development within flood zones 2 and 3.

- (11) The foaling boxes hereby approved shall not be constructed until details of the external finishing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with these approved details.

Grounds: In the interests of good design and the amenities of the area.

- (12) No further development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Grounds: To ensure that features of archaeological interest are properly examined and recorded

- (13) The development hereby approved shall be carried out in accordance with the following approved drawings: 'Proposed plans and elevations' received 3/2/14 and existing and proposed block plans received 18/3/14.

Grounds: For the avoidance of doubt and in the interests of proper planning.

### **Informatives**

1. The applicants attention is drawn to condition 2 of planning permission SW/03/0235 for the change of use of site from agricultural land to the keeping and grazing of horses with three stables and a hay bam which states "The stables and grazing land hereby permitted shall be for private domestic use and for no other purpose, including leasing to individual occupants, a livery stable or riding school." Therefore, if the applicant intends to use the site for

## **Deferred Item 1 - Appendix**

an equine business planning permission for the change of use from private stables would be required.

2. Kent County Council Public Rights of Way Officer wishes to make the applicant aware that planning permission confers no consent or right to disturb or divert the public right of way at any time without the express consent of the Highway Authority. Should the exercise of private rights damage the surface of the public right of way to such an extent that it is unsuitable for public use the proposed residents may be liable to repair the path surface.

### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the applicant was asked to demonstrate their gypsy status to substantiate the terms of the application.

### **Description of Proposal**

This application seeks planning permission for the change of use of land to a 1 no. pitch gypsy site (1 no. mobile home, 2 no. touring caravans) with associated foaling boxes and parking bays at Oast Field Stud, Gore Farm Track, Holywell Lane, Upchurch.

The use of the site as a gypsy pitch has already commenced – at the time of the officer site visit, the site had a static caravan, two touring caravans, a horse box and three vehicles parked on it. However, the layout of the existing site is not in accordance with the submitted proposed block plan. The layout of the site would be rearranged in accordance with the submitted plans should planning permission be granted.

However the proposed foaling boxes which have not been built would be 11m long, 5.5m wide and 3.8m tall and located directly to the north of the existing stables. The static caravan would be located to the east of the foaling boxes with two touring caravan spaces and five car parking spaces to the east of this. The associated driveway would be made of road scalplings and lead to a vehicle access onto the track.

## Deferred Item 1 - Appendix

The submitted proposed block plan shows that the development layout has been intentionally designed to be located outside the flood zones as indicated by the 'line of proposed flood level' on the drawing.

The agent has submitted a detailed planning statement and additional information demonstrating the applicants gypsy status. The planning statement clarifies the following;

*“The applicant’s partner is an Irish Traveller. The applicant and her partner are engaged in equine related work, and travel to horse fairs every year in order to trade horses and dogs. Up until now, the applicant has applied for the provision of a mobile home based upon her equine business. Due to being poorly advised, these applications were unsuccessful, and the subsequent appeals withdrawn. The applicant was unaware that her enforcement notice had not been appealed. As a consequence, the applicant and her partner have chosen to apply for one pitch under Gypsy / Traveller status.”*

The additional information extends to several dozen pages and includes a detailed breakdown of why the agent considers the applicant, her partner and their children can be afforded gypsy status. In summary, the applicants’ partner is an ethnic Irish Traveller. The applicant is from a settled background but has taken to her partners’ lifestyle. The couple are engaged in horse dealing and dog breeding and for the past 24 years have travelled extensively to sell both and attend horse fairs. The family lived in bricks and mortar housing for some time due to a lack of suitable sites and in order to provide a stable base for their children’s education. During this time they continued to travel in a caravan to deal in horses and dogs. Extensive case law is provided and provides commentary on issues such as seasonal travel, travelling for economic purposes, holding nomadism in abeyance and living in a caravan.

### **Site Description and Planning History**

The application site is located to the west of Holywell Lane down Gore Farm Track. The part of the site adjacent to the track is relatively flat with the land beyond rising steeply to the north. Gore Farm Track is lined with trees and bushes and is a restricted byway and also a promoted cycle route.

There is open countryside to the south of the application site, a single residential dwelling know as ‘The Oast’ to the west with a reservoir beyond and countryside to the north. A number of other gypsy sites are located along Holywell Lane including The Paddocks, Hedgerows and Greenacres. Hursell Farm is also located nearby. Holywell Nursery and two residential properties known as The Shieling and Tree Tops are also located on Holywell Lane.

The application site is located within the countryside, a strategic gap, and Gore Farm Track is a rural lane in accordance with the Proposals Map of the Swale Borough Local Plan 2008. The site also has archaeological potential. The southern edge of the application site is located within flood zone 2 and 3. A high pressure gas pipe line is located approximately 10m from the north east corner of the application site. The

## Deferred Item 1 - Appendix

site falls within the Upchurch and Lower Halstow fruit belt in the Council's adopted Landscape Character and Biodiversity Appraisal Supplementary Planning Document.

The planning history for the application site includes the following;

SW/03/0235- To change existing site from agricultural land to the keeping and grazing of horses with three stables and a hay barn- approved.

SW/11/0549- Change of Use from private stables to stud farm and livery yard including the erection of foaling boxes and the stationing of one mobile home for residential accommodation in association with the stud farm and livery business- refused for the following reasons;

"1. The application fails to adequately justify the provision of a mobile home for permanent residential accommodation and lacks clarity on the exact nature of the use of the mobile home. It is therefore unacceptable in principle, and its presence within the countryside would have an unnecessary and significant harmful impact on the character and appearance of the surrounding rural area. The new dwelling would also be sited within an unsustainable location, poorly related to public transport routes and centres where essential services are available. The proposal is therefore contrary to policies SP1, SP4, SP5, E1, E6, E9, RC1 & RC9 of the Swale Borough Local Plan 2008, PPS1 – Delivering Sustainable Development, PPS3 – Housing, PPS7 – Sustainable Development in Rural Areas and PPS4 – Planning for Sustainable Economic Growth.

2. The mobile home would, by virtue of its scale and size, have a significant detrimental impact on the character and appearance of the surrounding rural area and the quality of the landscape contrary to policies E1, E6, E9, E19, RC1 & RC9 of the Swale Borough Local Plan 2008, PPS7 – Sustainable Development in Rural Areas and PPS4 – Planning for Sustainable Economic Growth and the advice in the adopted Supplementary Planning Document – Swale Landscape and Biodiversity Appraisal February 2011."

A subsequent appeal was withdrawn.

SW/12/0334- Change of use from private stables to stud & livery farm including erection of 3 foaling boxes, static mobile unit and provision of parking and turning- refused for the following reasons;

"1. The application fails to adequately justify the provision of a mobile home for permanent residential accommodation and lacks clarity on the exact nature of the use of the mobile home. It is therefore unacceptable in principle, and its presence within the countryside would have an unnecessary and significant harmful impact on the character and appearance of the surrounding rural area. The mobile home would also encourage unsustainable vehicle movements to the site given its location poorly related to public transport routes. The proposal is therefore contrary to policies SP1,

## Deferred Item 1 - Appendix

SP4, SP5, E1, E6, E9, RC1 & RC9 of the Swale Borough Local Plan 2008 and provisions of the National Planning Policy Framework.

2. The mobile home would, by virtue of its likely scale and size, have a significant detrimental impact on the character and appearance of the surrounding rural area and the quality of the landscape contrary to policies E1, E6, E9, E19, RC1 & RC9 of the Swale Borough Local Plan 2008 and advice in the adopted Supplementary Planning Document – Swale Landscape and Biodiversity Appraisal February 2011.”

Following the refusal of planning permission an enforcement notice ref ENF/13/0013 was issued requiring;

- (i) Cease the use of any part of the Land as a caravan site for the stationing of any mobile homes or caravans.
- (ii) Remove any caravans/mobile homes from the Site, including any structures, fencing, materials and equipment brought on to or erected on the Land, including any works undertaken in connection with the use of the Site for stationing mobile homes or caravans.
- (iii) Restore the Land to its previous condition.

The time for compliance is 12 months from 22 May 2013. Enforcement action is being held in abeyance pending the outcome of this planning application.

### **Views of Consultees**

Upchurch Parish Council's comments are summarised as follows;

- This is a retrospective application as the site is in use.
- The previous stud farm application was refused. The use and layout are the same as previously proposed except this claims to be a gypsy site.
- The Parish has 9 gypsy/ traveller sites and the location of this one is contributing to a vast expansion of such sites in the area. It joins Holywell Lane which has ribbon development of gypsy sites along it which contribute to an unsightly and haphazard development.
- They front on to a narrow lane with no pedestrian footways and where it is difficult for two vehicles to pass each other.
- The Parish's views reflect those of the settled community within the Parish and request that they are given sympathetic consideration and that this application for yet another gypsy site be refused. We have more than our fair share of such sites compared to other areas within Swale.

The Head of Service Delivery recommends conditions relating to manure storage and the means of foul sewage treatment and discharge. The former is unnecessary because the existing facilities would be used and the latter is attached above.

Kent Highway Services raise no objection subject to a condition protecting vehicle parking space.

## Deferred Item 1 - Appendix

The Environment Agency considers the proposal to be covered by their standing advice.

Southern Water note the application does not state details of mean of disposal of foul drainage from the site. There are no foul sewers or surface water sewers in the area. The applicant should explore alternatives. The EA should be consulted on the use of private wastewater treatment works or septic tank drainage which disposes of effluent to sub-soil irrigation. The owner will need to maintain the system. There is a communication pipe within the site.

### **Other Representations Received**

Two letters of objection have been received which are summarised as follows;

- Strongly object because the road used as a public path (Gore Farm Track) is never maintained except for us filling in pot holes and cutting back the hedges.
- If approved the road would be overused with no room for passing vehicles so you have to reverse.
- Many walkers, runners and cyclists use the road and the proposal would create a hazard for them.
- The outlook from our property and for the area would change from the previous open space.
- Loss of property value
- Villages look a mess due to the number of traveller sites.

One general letter has been received seeking clarification that this is a retrospective application and no new caravans are being proposed.

Swale Footpaths Group comments “again I am not certain of the exact location. There are several public rights of way nearby.”

The Health and Safety Executive does not raise objection.

Kent County Council Archaeology recommends that a watching brief condition is added to the permission.

Kent County Council Public Rights of Way Officer notes that Gore Farm Track is a restricted byway ZR25. Its status means that any motorised vehicular access would be in a private capacity. There must be no disturbance of the right of way or obstruction of its use either during or following development.

## Policies

### National Planning Policy Framework (NPPF)

The NPPF was released on 27<sup>th</sup> March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

The 12 month period noted above has expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework (LDF) Panel on 12 December 2012. All policies cited below, with the exception of policy E7 (Strategic Gap), are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process. With regards to policy E7, the report to the LDF panel notes that this policy is not wholly in accordance with the NPPF in that it seeks to protect gaps between settlements. In contrast, the NPPF in seeking to support a prosperous rural economy is more positively framed in terms of development opportunities in the rural area. In this sense, the prevention of the merging of settlements at a strategic level is weakened somewhat. This policy is at low/medium risk, should the Borough not have a viable and deliverable five year housing land supply. As such, it is not advisable to solely rely on this policy for the refusal of development.

The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking. For **decision-taking** this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - 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; or
  - specific policies in this Framework indicate development should be restricted.

**Para. 7** defines sustainable development as having three strands – social, economic and environmental.

The NPPF outlines a set of core land-use planning principles (**Para 17**) which should underpin both plan-making and decision-taking including to - Contribute to conserving and enhancing the natural environment and reducing pollution and

## Deferred Item 1 - Appendix

encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high value.

**Para 55** - To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
  - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
  - reflect the highest standards in architecture;
  - significantly enhance its immediate setting; and
  - be sensitive to the defining characteristics of the local area.

**Para. 109** - The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

**Para. 112** - Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

**Para. 118** - When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:



## Deferred Item 1 - Appendix

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest; development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;
- opportunities to incorporate biodiversity in and around developments should be encouraged.

### Planning Policy for Traveller Sites (PPTS)

National Policy on Gypsy and Traveller sites is set out in the National Planning Policy Framework (NPPF) and the Planning Policy for Traveller Sites (PPTS) (also published in 2012, and which deals with decision-taking on pages 6 and 7). The requirement in both documents is very clear, in that the Council should now set pitch targets which address the likely need for pitches over the plan period. Furthermore, the Council is required, from 2013 onwards, to maintain a rolling five year supply of sites which are in suitable locations and available immediately.

The PPTS is a recent change in national policy; prior to this national policy was set out in Circular 01/2006; where the original intention was for regionally set pitch targets to be met. The Council has in my view responded positively and quickly to the change in national policy. The LDF Panel immediately recognised, and supported, the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2013 and identified a need for 82 pitches to be provided (adjusted down from 85 pitches in reflection of those sites granted consent whilst the document was under preparation).

From this, the Council will produce a Development Plan Document setting out deliverable sites to meet this need. However, it is anticipated that this will take until the end of 2015 to become formal policy, as it relies upon successful adoption of the draft Local Plan, entitled "*Bearing Fruits*," which is unlikely to be formally agreed until at least late this year.

Regard should also be had to the guidance in the Communities and Local Government document, 'Designing Gypsy and Traveller Sites: Good Practice Guide' (2008).

### Local Policy

- i) *The Adopted Swale Borough Local Plan 2008*

## Deferred Item 1 - Appendix

The Development Plan comprises the Swale Borough Local Plan 2008 (SBLP).

SBLP policy E1 sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.

SBLP Policy E6 seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.

SBLP Policy E7 seeks to resist development that results in the merging of settlements or results in the encroachment or piecemeal erosion of land or its rural open and undeveloped character or, prejudice the Council's strategy for the redevelopment of urban sites.

SBLP Policy E9 seeks to protect the quality and character of the Borough's Landscape. Within the Countryside and rural settlements, the Borough will expect development proposals to be informed by local landscape quality and character, consider the landscape character SPD, safeguard and enhance landscape elements that contribute to the distinctiveness of the locality or the Borough, remove features which detract from the character of the landscape and minimise the adverse impacts of development upon the landscape character.

SBLP Policy E11 seeks to protect and enhance the Borough's Biodiversity and Geological Interests.

SBLP Policy H4 had largely been superseded by ODPM Circular 01/2006. However that has itself largely been superseded by *Planning Policy for Traveller Sites*. In my view, Policy H4 should be afforded very limited weight in the decision making process.

SBLP Policy E19 requires development proposals to be well designed.

SBLP Policy T3 requires adequate parking to be provided.

SBLP Policy T4 requires public rights of way to be retained or exceptionally diverted.

SBLP Policy RC7 states that development would not be permitted that would harm the character of rural lanes.

SBLP Policy RC9 requires well designed stables that are of a scale that has an acceptable landscape impact. The Council's adopted Supplementary Planning Guidance 'The Erection of Stables and Keeping of Horses' is also relevant.

ii) *Bearing Fruits 2031*

## Deferred Item 1 - Appendix

The Council's Draft Core Strategy has now been replaced by the emerging draft Local Plan, entitled *Bearing Fruits 2031*, part 1 of which was sent out for consultation in August last year. The emerging nature of the document is such, however, that it cannot be afforded significant weight in the determination of planning applications such as this.

Policy DM10 of the emerging Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments, stating:

*"For housing proposals between 50 and 149 dwellings, one pitch shall be provided for gypsies and travellers. For 150 dwellings and above (or 200 dwellings on previously developed urban sites), unless a commuted sum has been agreed with the Council, 1% of the total number of dwellings proposed shall be serviced and made available to gypsies and travellers as pitches and/or bespoke accommodation, either for sale or rent, as appropriate, and up to a maximum of 10 pitches on any one allocation. Where identified, pitches may also be required to meet an affordable housing need."*

The policy also notes that sites may need to be granted permission individually in order to meet the five-year supply, and this will be subject to certain general criteria, and also compliance with draft policies DM9 and ST3.

Draft policy DM9 requires applications for affordable housing / gypsy and traveller pitches within rural areas to demonstrate that:

- The site is well located to local service centres and villages, with access to day-to-day services;
- There will be no significant impact upon character and amenity of the countryside; and
- The need for the scheme is clearly demonstrated and justified by the applicant.

Policy ST3 sets out a settlement hierarchy for when considering proposals for new development, stating that outside of the defined built up areas "*permission will be granted for appropriate development involving...accommodation for gypsies and travellers that cannot be met at housing allocations or within or adjacent locations within*" the identified Borough centres, rural service centres, or other villages with built up area boundaries.

Policy DM 30 - Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:

1. The site is allocated for development by the Local Plan;
2. There is no alternative site on land of a lower grade than 3a; or
3. Use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and
4. The development will not result in the remainder of the agricultural holding becoming not viable.

## Deferred Item 1 - Appendix

The following policies are also relevant – DM14 (general development criteria); DM15 (design); DM27 (biodiversity); DM31 (listed Buildings) and; DM32 (Conservation Area).

### iii) *Corporate Policy*

In January 2009 the Council published a consultation draft Gypsy and Traveller Corporate Policy to address the issue of gypsy site provision. This recognised that the Borough has traditionally had one of the largest gypsy and traveller populations within Kent and the South-East of England, often related to traditional farming activities.

The policy is based on meeting the predicted site needs from the Council's original GTAA (and was designed to meet the expected RSS figures) and whilst the Circular advocated a site allocations policy, the Council's policy explains that the combination of the wide range of pitch numbers potentially required, and the Council's good record of approving small private sites, meant that at that stage a site allocations approach is not the right way forward for Swale. The Council undertook a full survey of potential sites against a set of criteria in accordance with Government guidance. This included a review of current temporary permissions and an assessment of the potential of publicly owned land to meet the identified need. This site is mentioned in the survey. This, together with finding a solution for a persistent group of families at Sittingbourne (who were responsible for the vast majority of the unauthorised encampments in the Borough), was expected to see the Council making adequate provision to meet needs.

Potentially acceptable sites were then been assessed against a range of criteria including ownership (deliverability), utilities, highway issues, landscape impact and ease of access to local services. These assessments are a simple but objective measure of the likely suitability of each site, but are not intended to be the sole consideration in determining planning applications, which remain to be determined on their own merits. Some sites have been excluded from these assessments at the first stage due to flood risk or national or international nature conservation grounds, serious landscape or heritage impact or site suitability over a range of issues.

The Corporate Policy produced a schedule of possible sites to address local need, and these were published in the March 2010 Gypsy and Traveller Corporate Policy Site Assessment Consultation. The result of public consultation on that schedule and the assessment scores of potential sites was considered by the Council on 7 October 2010.

The Local Development Framework Panel at its meeting on 7 October 2012 accepted the following recommendations:

(1) *“That site assessments are a material consideration for the purpose of decision making subject to review when new national guidance is produced and*

## Deferred Item 1 - Appendix

*further note the report on site scores. Also, as sites come forward as planning applications the site assessment be reviewed for currency*

*(2) That sites to be removed from the Site Assessment process in Appendix 2 be agreed.*

*(3) That assessment work so far and consultation responses as evidence base for the LDF be noted.*

*(4) That the Corporate Policy and Site Assessment be reviewed when new national guidance is produced.*

*(5) That consideration of the Borough's pitch numbers be resolved when new national guidance is produced.*

*(6) That the unapproved draft of Core Strategy policy be received for initial comments.”*

The Council had thus been working towards meeting the anticipated requirement for provision of pitches through the publication of its Gypsy and Traveller Corporate Policy Site Assessment criteria. This has now been agreed as being a material consideration in the determination of planning applications. The current application site has been assessed under the site assessment contained within the Corporate Policy. This can be found at **Appendix A**.

The Corporate Policy has in my view been largely successful in guiding the provision of gypsy and traveller sites. Currently, the Council has granted planning permission for the following since 2006:

18 permanent sites – comprising 126 caravans equating to 76 pitches; and  
12 Temporary sites – comprising 25 caravans equating to 15 pitches

(iv) *GTAA 2013*

In response to national policy and to gain a greater understanding of the Borough's need for pitch provision, the Council were required to produce a Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in 2013. The GTAA looked at a number of factors such as household growth and the number of families moving in and out of the Borough. The study also involved interviewing 163 resident households (79% of the estimated resident Gypsy and Traveller community within the Borough) to find out what their future accommodation needs were. The majority of Gypsies and Travellers both in caravans and in housing have lived in Swale for over ten years. Whilst the study assumed that inward and outward migration from the Borough equalled each other, it is possible that migration levels could increase in the future requiring a review of the GTAA or a need to grant planning permission for windfall sites - sites that come forward unexpectedly and get planning permission without first having been allocated for development in the Local Plan.

The GTAA concluded that the Borough requires 85 pitches to be provided from 1 April 2013 to 31 March 2031. This target has been adjusted to 82 pitches to reflect the granting of planning permission for three pitches between the survey base date February 2013 and 31 March 2013. An additional net 17 pitches have also been

## Deferred Item 1 - Appendix

approved since 1 April 2013. The remaining need up to 2031 currently stands at 65 pitches.

At present, this Council is consulting on an issues and options paper relating to Part 2 of the Local Plan: Gypsy and Traveller site allocations. The closing date for this consultation is Friday 25<sup>th</sup> April 2014. This document will eventually identify and allocate sufficient sites to meet the future needs of Gypsies and Travellers in the Borough until 2031. The document recommends a new methodology for how to assess site suitability for determining whether or not to allocate a site.

### Swale Landscape Character and Biodiversity Appraisal SPD 2011

The application site falls within the Upchurch and Lower Halstow fruit belt area of the Swale Landscape and Biodiversity Appraisal Supplementary Planning Document. In this area it is advised to look for opportunities to create features to restore a strong landscape structure with tree and hedge planting. The SPD states that the overall aim should be towards conservation and creation of the landscape.

### **Discussion**

I note the objections of the local residents and Upchurch Parish Council. Permission cannot be refused because the application is retrospective. Loss of property value is not a material consideration here. Whilst the layout is similar to the previously refused application, this proposal is materially different because it is made under gypsy/traveller status. Issues relating to potential over proliferation of sites, the visual impact and highway safety are considered below.

### Applicant's Gypsy Status

A key issue to be considered is the status of the applicant as a gypsy or traveller. The PPTS provides a definition of gypsies and travellers as:

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”*

It is noted that the applicants' gypsy status has never previously been put forward as justification for the grant of planning permission. I requested and have received a detailed explanation of the applicant, her partner and children's gypsy status which I considered entirely convincing. I note that no representations have been received disputing the applicants gypsy status, and with no evidence to hand to contradict that provided by the applicant, I recommend that Members accept the gypsy/traveller status of the applicant and determine the application in this light.

## Deferred Item 1 - Appendix

### Principle of development

The proposed development on the site is located outside flood zones 2 and 3. It is not located in a nationally designated area relating to landscape or biodiversity. It is not within or near to a conservation area or listed building. There is no known contamination issue at the site. The PPTS states that sites in open countryside away from settlements should be strictly controlled. In my view this policy has three purposes which are to minimise visual harm to the countryside, ensure sites are not isolated from the settled community and ensure sites are sustainably located.

The site is located within a reasonable distance of two primary schools in Upchurch and Newington, the Co-op shop and Gore Farm Farmshop, the Doctors surgery in Upchurch and the public transport links in Upchurch (bus stop) and Newington (bus and train station). The site is not within a reasonable distance of a secondary school or dentist, both of which can be found in Rainham. In my view, the site is in a comparatively sustainable location.

The site is located near two bricks and mortar houses and a number of other gypsy sites in the area. This forms a small cluster of residential development on the outskirts of Upchurch. I do not consider this location to be isolated from the existing community.

Whilst the site is slightly remote and removed from some facilities, other facilities are within a reasonable distance and I do not therefore consider this amounts to an isolated site.

The site assessment score totals 34 out of a possible 46 (See Appendix A) which, whilst not determinative, in my opinion demonstrates that the site is appropriate in many respects.

Whilst clearly there are a number of gypsy/traveller sites in the Upchurch area, this site taken cumulatively with others, or individually on its own merits would not dominate the nearest settled community. Equally, I do not consider that it would place undue pressure on the local infrastructure.

I consider the use of the site to be acceptable as a matter of principle.

### Character and appearance of the countryside

In my opinion, the proposal would not result in an over-proliferation of such sites in the immediate vicinity. Whilst there are a number of gypsy sites in the area these are concentrated along Holywell Lane whereas the proposal is located down Gore Farm Track and is not visible from Holywell Lane. The site itself sits at the foot of a hill and Gore Farm Track is lined with hedges and trees which prevents undue visual harm in my opinion. The impact on the character and appearance of the countryside is acceptable in my view.

## **Deferred Item 1 - Appendix**

The application site falls within the Upchurch and Lower Halstow fruit belt area of the Swale Landscape and Biodiversity Appraisal Supplementary Planning Document. In this area it is advised to look for opportunities to create features to restore a strong landscape structure with tree and hedge planting. The SPD states that the overall aim should be towards conservation and creation of the landscape. Landscaping of the site, in accordance with the above conditions would assist in this respect.

### Highway safety and convenience

It is noteworthy that Kent Highway Services raises no objection to the proposal subject to a single condition protecting the vehicle parking spaces. Gore Farm Track is typical of an unmade road in that there are pot holes and the road is narrow in places. However, the road still provides a sufficient access to the site in my opinion and indeed the existing road is used by other residents to access their properties.

The condition of the road means vehicles travel at very low speed which would not harm pedestrian and cycle safety in my opinion.

Gore Farm Track is classified as a rural lane but in my view the proposal would not, in itself or cumulatively, result in an increase in traffic as to harm its character.

I consider the impact on highway safety and convenience acceptable.

### Other material considerations

The site is well removed from the existing residential properties at 'The Oast' and 'The Paddocks' therefore the impact on residential amenity would be very minimal in my opinion.

Kent County Council's Public Right of Way Officer raises no objection and I note Swale Footpaths Group raises no objection. The impact on the restricted byway and cycle route would be acceptable in my opinion.

Kent County Council Archaeology recommends a watching brief condition given the archaeological potential at the site which is considered reasonable.

The Health and Safety Executive does not advise that the application be refused on safety grounds due to the nearby gas pipe line and I have no concern in this regard.

The foaling boxes are well designed and in keeping with the area. They would be sensibly located, would comply with the SPG and are acceptable in all regards in my opinion.

### Recommendation

Having considered the application against national and local plan policies and the Council's Corporate Policy, I am of the view that the use of this site on a permanent



## **Deferred Item 1 - Appendix**

basis for Gypsies and Travellers would be acceptable. The site achieved a relatively high score and is suitable in many respects and is away from sensitive areas.

Whilst a few services/amenities are not within 2km of the site, these do not in my view demonstrate that the site is in an unsustainable location, or amount to a sufficient reason to refuse planning permission, and to do so would be contrary to the provisions of government planning guidance, especially the PPTS. The harm to the character and appearance of the countryside is minimal in my view, and there would not be significant harm to residential amenity or highway safety and convenience.

Accordingly, the proposed permanent use of this site is considered acceptable and I recommend that planning permission be granted.

### **List of Background Documents**

1. Application papers and correspondence for SW/03/0235, SW/11/0549, SW/12/0334 and ENF/13/0013.

**Deferred Item 1 - Appendix****2.11 APPENDIX A:****Oast Field Stud, Gore Farm Track, Holywell Lane, Upchurch.  
SITE SCORE – 13<sup>th</sup> March 2014.**

General observations	Comments
Parish	UPCHURCH
Full Address	Oast Field Stud, Gore Farm Track, Holywell Lane, Upchurch, Sittingbourne, ME9 7BE.
Capacity of site to provide for approx caravans	3
Is the site within any of the following SSSI?	No
Other European Designation Site?	No
Natural Conservation or Biodiversity site?	No
AONB?	No
Listed Buildings/Conservation Areas/Scheduled Ancient Monument?	No
Local Designated Wildlife Site?	No
Local Landscape Designation?	No
Local Plan Allocation?	No
What landscape character area does the site fall within and what are the relevant guidelines given by the Swale Landscape Character Assessment?	Upchurch and Lower Halstow Fruit Belt; Inter alia consider the generic guidelines for fruit belt landscapes and for commercial and equestrian.
Does the location meet the needs of the prospective occupiers?	Yes
Is the site existing or proposed?	Existing
Is there potential for disturbance to proposed occupiers e.g. Railway lines, industrial uses, busy roads?	No
Any planning issues relating to cumulative impact of successive sites within the same area?	Yes

## Deferred Item 1 - Appendix

### 2.11 APPENDIX A:

#### Site Availability

Site availability	Yes/No
Public/SBC/KCC ownership?	No
Is there a willing landowner?	Yes
Are the applicants in ownership?	Yes
No restrictive covenants or known legal problems?	No
Likely to be deliverable?	Yes

#### Site Suitability

Site suitability	Yes/No
Utilities in place or easily provided?	Yes
Water (Taps etc)	Yes
Electricity	Yes
Gas bottle/tank or Oil tank	Yes
Drainage/Sewage (mains or cess pit?)	No
Is site flat and stable surface?	Yes
If uneven, is there a flat surface around proposed residences?	
Is site away from cliff edge/coastal erosion?	Yes
Is site outside flood zone 3 & 2?	Yes- no caravans within flood zone 2 or 3.
Is site away from contaminated land?	Yes
If land is contaminated, is remediation viable?	NA
Is site on previously developed land?	No

## Deferred Item 1 - Appendix

### 2.11 APPENDIX A:

#### Access and Parking

Access and parking	Yes/No
Is there a flat, usable access to the site?	Yes
If not, could one be provided?	NA
Are the surrounding roads usable? e.g. not unmade, not dirt tracks and passable in bad weather?	Yes
Are there parking areas on the site?	Yes
If not, can they be provided?	NA
Is there space for turning vehicles?	Yes
Is there space for servicing or large vehicles?	No
Is there pedestrian access to the site?	Yes
Are there footpaths/bridle ways across the site?	No
Are any proposed accesses away from neighbouring residences?	Yes
Is there minimal anticipated noise and disturbance from an access close to dwellings?	Yes

#### Landscaping

Landscaping	Yes/No
Is the site enclosed in any way or screened from the road/residences?	Yes
Is there any existing landscaping features e.g. trees, hedgerow, fences?	Yes- existing hedge along road.
If not, can these be provided?	Yes
Are there any landscaping measures proposed?	No
Is the site within the boundary or immediately adjacent to an urban area/settlement boundary?	No
If not is the site within close proximity (2km) to an urban area or settlement?	Yes

**Deferred Item 1 - Appendix**

**2.11 APPENDIX A:**

**Impact on Amenity**

Impact on amenity	Yes/No
If any overlooking is anticipated, can it be resolved e.g. landscaping?	Yes
Are the proposed residences more than 6m from other residences on site or neighbouring?	Yes
Is the site away from operational land e.g. car parks, industrial uses?	Yes

**Sustainability of Location**

Sustainability of location	Yes/No
Is the site within a reasonable distance (2km) to a settlement which offers local services and community facilities? If not, what distance?	Yes
Is the site within a reasonable distance (2km) to the following services?	
<ul style="list-style-type: none"> <li>Nursery/Primary School?</li> </ul>	Yes- 1.4km to Upchurch Primary School and 1.8km to Newington C of E Primary School.
<ul style="list-style-type: none"> <li>Secondary School?</li> </ul>	No 5.5km to the Howard School Rainham
<ul style="list-style-type: none"> <li>Doctors? Primary Health Care?</li> </ul>	Yes – Doctors – Oak Lane, Upchurch
<ul style="list-style-type: none"> <li>Dentists?</li> </ul>	No. 5km to Rainham
<ul style="list-style-type: none"> <li>Food/Clothes and other shops?</li> </ul>	Yes- 1.5km to Co-op Upchurch
<ul style="list-style-type: none"> <li>Public transport links e.g. bus stops/train station</li> </ul>	Yes- bus stop in Upchurch

**Total**

Total score	<b>34</b>
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**Location :** The School Pool, Oare Road, Faversham, Kent, ME13 7QU

**Proposal :** Single toilet/shower unit

**Applicant/Agent :** Mr P Downs, Faversham Angling Club, 32 St Marys Road, Faversham, Kent, ME13 8EH

**Application Valid :** 22 January 2014 and as amended by drawings received 17 March 2014

**8 Week Target :** 19 March 2014

**CONDITIONS/GROUNDS**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Prior to the commencement of development, details of the external finishing materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Grounds: In the interests of visual amenities of the area.

3. No development shall take place until full details of landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, and an implementation programme.

Grounds: In the interests of the visual amenities of the area.

4. All landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of the building or in accordance with the programme agreed in writing with the Local Planning Authority.

Grounds: In the interests of the visual amenities of the area.

5. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area.

6. Notwithstanding the details shown on drawing 11/204/TB REV A the doorway to the toilet/shower unit shall face south towards the lake.

Grounds: In the interests of the visual amenities of the area.

7. Details of a 1.8 metre high close boarded fence to be provided along the northern boundary of the site to screen the building shall be submitted to and approved in writing by the local planning authority prior to the first use of the building hereby permitted and shall be maintained as such in perpetuity thereafter .

Grounds: In the interests of residential amenity

### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the applicant was provided the opportunity to submit amendments to the scheme to address objections to the original location.

### **Background**

Members may recall that this application was previously reported to the Planning Committee on 8<sup>th</sup> May 2014. The application is for the erection of a single toilet and shower unit on land adjoining the lake at the Faversham Angling Club at The School Pool, Oare Road Faversham. (Please note that my report to that meeting is attached as Appendix A). At that meeting Members deferred the application to receive answers to questions raised at Committee. (Faversham Angling Club's response is attached as Appendix B).

Since the meeting I have received one e-mail from a resident of Lakeside Avenue supporting the idea of the shower block being built at the Churchill way end of the site.

## **Discussion**

Members asked the following four questions, to which I have received the following answers.

### **1. Why is a separate new toilet block required rather than the existing?**

The Faversham Angling Club provide fishing areas which are easily accessible and they are keen to provide all members with accessible and conveniently placed toilet and shower facilities. There is no electricity at the existing toilet and for the Club to provide a shower for members an alternative position is necessary.

### **2. Have the applicants consulted the new residents?**

The original site suggested by the developers who would be constructing the toilet/shower unit was located directly in front of the new houses in Davington Park. Following some objections from local residents the applicant then submitted an amended drawing with the unit sited in the North West corner of the site behind a newly built double garage to the front of no 59 Lakeside Avenue. The new location was discussed with some of the residents when they expressed their reservations about the suitability of the original proposed location. The residents they spoke to stated they would be happy for the unit to be sited in its new proposed location.

### **3. Have you consulted disabled Anglers on the choice of that location?**

They do have some registered disabled anglers. The new facility is not specifically designed for disabled users but its construction will provide easy access and use for less able bodied members.

### **4. Is there a practical reason for the toilet block to be in the proposed location?**

When the applicants first had conversations with the developers, they were advised that adding a shower unit into the existing toilet facility was not the best solution as it would be difficult to get an electricity supply. They advised that the construction of an additional unit further up the bank where power, water and sewage services could be easily connected from the housing development would be the best solution. There is no access to services elsewhere around the lake.

## **Recommendation**

In my opinion the applicants have clarified why the toilet/shower unit would need to be located in its new position as shown on the amended drawing. They would be agreeable to the unit being turned south so that the entrance door would face towards the lake as there is ample room for this to be achieved. The toilet/ shower unit would be screened by fencing and planting to help it blend into its surroundings. They also state that they do not envisage the unit being used regularly during night time hours and that they would monitor its usage.

I therefore recommend that the amended proposal be approved subject to conditions.



## Deferred Item 2 – Appendix A

**2.7 SW/14/0079 (Case 02191)**

**Faversham**

**Location :** The School Pool, Oare Road, Faversham, Kent, ME13 7QU

**Proposal :** Single toilet/shower unit

**Applicant/Agent :** Mr P Downs, Faversham Angling Club, 32 St Marys Road, Faversham, Kent, ME13 8EH

**Application Valid :** 22 January 2014 and as amended by drawings received 17 March 2014

**8 Week Target :** 19 March 2014

### **CONDITIONS/GROUNDS**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Prior to the commencement of development, details of the external finishing materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Grounds: In the interest of visual amenity and in pursuance of policies E1 and E19 of the Swale Borough Local Plan 2008.

### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the applicant was provided the opportunity to submit amendments to the scheme to address the location objections.

## **Deferred Item 2 – Appendix A**

### **Description and Relevant Site History**

This application is for a single toilet and shower unit on land adjoining the lake at the Faversham Angling Club at The School Pool, Oare Road Faversham.

The proposed building would comprise of brick walls and a pitch tiled roof using similar materials to those of the houses in Lakeside Avenue to the north and would measure 3.14 metres wide, 3.9 metres deep and 4.5 metres high.

The original submission showed the proposed toilet block to be directly located in front of the new houses in Davington Park which gave rise to objections relating to the proposed location. The applicant has since submitted amended drawings with the proposal in an alternative location (the North West corner of the site). In this position the proposed building at the western end of Lakeside Avenue would be located immediately to the south of the double garage block to the front of 59 .

### **Relevant Consultees**

Faversham Town Council raises no objection.

Natural England is satisfied that the proposed development being carried out will not damage or destroy the interest features for which The Swale SSSI has been notified and therefore raises no objection.

### **Other Representations**

I have received eleven letters of objection with the proposal in its original location these objections relate mainly to its position, obstructing the direct view over the lake. Other objections refer to the fact that the lake accommodates 24 hour fishing with the proposal in that position it would create a loss of privacy as well as add to noise and smell pollution.

The applicant then submitted amended drawings with the proposal in an alternative location (the North West corner of the site). Following further consultation I have received one withdrawal of an objection and a further three objections reiterating the previous objections.

### **Policies**

Swale Borough Local Plan 2008  
E1 (General Development Criteria)  
E6 (The countryside)

## **Deferred Item 2 – Appendix A**

### **Discussion**

I consider that the main consideration in the determination of this planning application is the impact on the neighbouring properties and on the visual amenities of the area.

The original application clearly highlighted that a shower block would be beneficial but there was no doubt that there are more practical and suitable sites for it to be located. The school pool is a popular venue for members of the fishing club, guests and day ticket holders and would therefore be appropriate to provide additional toilet facilities. The applicants have clarified that the toilet block would need to be located in its new position as shown on the amended plan due to the levels of the sewer system serving the site. The building would be located next to the 1.5 m high railings that border the public footpath and will be behind an existing double garage block at no 59 lakeside Avenue in the Davington Park development which is approximately 3.5m away screening the block from the majority of the properties. In this position the proposal has far less impact on the surrounding visual amenities of the area and the impact on the surrounding residential amenity is greatly reduced than compared with the original submission. I also consider that there will be no significant impact on the neighbouring amenity in terms of the scale and siting of the proposed toilet / shower block in its new proposed location, the dwellings to the west of the site in Churchill way would be screened by an existing 2m high hedge which runs along the common boundary.

### **Recommendation**

As noted above, the amended location for the proposed toilet building would be a significant improvement on the original location proposed in terms of its limited visual impact on the surrounding area and it is considered that it would now have little if any significant harm on the amenities of the nearby residential properties.

I therefore recommend that permission be granted.

### **List of Background papers**

1 Application Papers and Correspondence for Application SW/14/0079



**Faversham Angling Club  
Chairman Peter Downs**

**32 St Marys Road  
Faversham  
Kent  
ME13 8EH**

**Telephone 01795 535822 (Evenings Only)  
Email: favershamanglingclub@yahoo.com**

18 May 2014

Dear Sir/Madam

Further to your request for extra information in relation to our planning application for a new toilet/shower unit.

Faversham Angling Club has over 350 members from as young as 8 years of age to seasoned anglers in their 80's. Many anglers now enjoy their leisure time at The School Pool, sometimes up to a week at a time and we try to make their stay as safe and comfortable as possible. We create swims (fishing areas) which are easy access and are keen to provide all members with accessible and conveniently placed toilet and shower facilities. We do have some registered disabled anglers and a number of others, who though not registered disabled, do appreciate the efforts that the club makes to enable them to enjoy their sport. The new facility will largely be used by able bodied members but its construction will provide easy access and use for less able bodied members.

When we first spoke to the developers we were advised that adding a shower unit into the existing toilet facility was not the best solution as it was difficult for them to get an electricity supply to the building and advised the construction of an additional unit further up the bank where power, water and sewage services could be easily connected from the housing development. The first site suggested by the developers was approximately two thirds of the way up the bank and following some objections from local residents we were asked to re-submit the plan showing the unit sited in the top corner area behind the newly built double garage. The new site was discussed with some of the residents when they expressed their reservations about the suitability of the original chosen area. The residents spoken to stated that they would be happy for the unit to be sited in the proposed new area. There is no access to services elsewhere around the lake.

The plan shows the door to the unit facing down towards the Oare Road but we would be agreeable to the unit being turned so that the door faced towards the lake. There is ample room for this to be achieved. The toilet/shower unit will be screened by fencing and bushes to help it blend into the surroundings. We do not envisage the unit being used regularly during night time hours, but we will monitor usage.

The angling club has always enjoyed a good relationship with its neighbours and we very much wish to continue in this vein and are willing to listen to any concerns raised.

Yours Faithfully

P Downs

Report of the Head of Planning

**PART 1**

Any other reports to be considered in the public session

<b>1.1</b>	<b>SW/11/0637 (Case 16005)</b>	<b>Bobbing</b>
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**Location :** Land at Watermark,Staplehurst Road,Sittingbourne,Kent,ME10 5BH

**Proposal :** Development of up to 300 residential units comprising a mix of houses and apartments, together with associated access, car parking and public and private open space.

**Applicant/Agent :** Hxruk II (Sittingbourne) Ltd, Mr Robert Clarke, Rapleys LLP, 51 Great Marlborough Street, London , W1F 7JT

**Application Valid :** 01 June 2011

**8 Week Target :** 27 July 2011

**Conditions/Grounds**

A decision is sought from Members in respect of the use of Section 106 monies from the Watermark housing development towards refurbishment works to Bobbing Village Hall. Outline planning permission for the development of up to 300 dwellings was granted in October 2013 under SW/11/0637. Planning permission was granted subject to a number of conditions and a section 106 agreement requiring the developer to provide a raft of developer contributions. These included a sum of £150,000 to be paid as a ‘Community Centre Contribution’. At the time, Members and Officers sought this to be provided towards the provision of the new community hall at The Meads 9also known as Sonora Fields. This money is to be paid before the 1<sup>st</sup> occupation of a dwelling on the Watermark housing development and would be pooled with money from other phases of housing at The Meads.

Officers have been approached by a Ward Member who has requested, on behalf of Bobbing Parish Council, that some of the £150,000 provided under the legal agreement as detailed above, should be used towards the refurbishment of the Bobbing Village Hall. I am lead to believe that the money is necessary to provide a new kitchen, disabled toilets and the general refurbishment of the hall.

The relevant section of the section 106 agreement reads as follows:

*“Community Centre Contribution: the sum of £150,000 payable by the owner to the Council towards the cost of providing a community centre serving the area known as*

*Sonora Fields and accordingly to be provided within one mile of the western boundary of the Site.”*

Legal advice has confirmed that this wording would allow the money to be spent on Bobbing Village Hall as well as the new community hall at The Meads. It should also be noted at the time that the outline planning permission at Watermark was being considered, Bobbing Parish Council requested some monies towards the provision of disabled toilets at their village hall. In resolving to grant planning permission, Members did not specify that this request should be carried forward to the legal agreement.

### **Relevant Site History and Description**

The outline planning permission is noted above. Members may recall that the reserved matters application for 224 dwellings (SW/13/1328) was brought before them on 10<sup>th</sup> April 2014. Members resolved to give officers delegation to approve planning permission subject to housing and highways matters being satisfactorily resolved. Negotiations are ongoing.

The Watermark site lies approximately 300 metres to the southeast of Bobbing Village Hall and 300 metres from the proposed site of The Meads community hall. There is pedestrian access to both halls from the Watermark site.

### **Discussion**

The provision of The Meads community hall has been planned for a number of years and it was always envisaged that the hall could only be provided with all of the phases of housing at The Meads contributing towards it. £348,000 has been collected so far, excluding the money from the Watermark housing development.

In response to the request from the Ward Members, Officers considered how the money from the Watermark scheme could be divided. The Ward Members suggest that there should be a 50/50 split - £75,000 to Bobbing Village Hall and £75,000 to The Meads community hall. However, it is my view that if such a split was to be agreed, such a decision could seriously jeopardise the provision of a community hall at the Meads even at a minimum required specification. Therefore, it is my view that priority should be given to the Meads and any money “left over” should be spent on refurbishments to the Bobbing Village Hall.

### **Recommendation**

Members are asked for a decision on the way that the community hall contribution generated by the Watermark housing development is divided between The Meads Community hall and Bobbing Village Hall. I recommend that only the surplus money, if any, from the construction of the new community hall at The Meads is given over to Bobbing Village Hall. There is a danger that the community hall at The Meads may not be provided if money is diverted elsewhere, which would deprive this substantial housing development of a key community facility. However, Members may consider that the needs of Bobbing Village Hall are so great that there is just cause for this risk.

## **List of Backgrounds Documents**

1. Application papers and correspondence for SW/11/0637
2. Application papers and correspondence for SW/13/1328

Report of the Head of Planning

Part 2

Applications for which PERMISSION is recommended

<b>2.1</b>	<b>SW/14/0255 (Case 11620)</b>	<b>Borden</b>
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**Location :** 59 Wises Lane, Sittingbourne, Kent, ME10 1YN

**Proposal :** Construction of pitch roof porch & rear extension and loft conversion with flat roof dormer to rear and hip roof gable at front

**Applicant/Agent :** Mr C Parry, C/o Mr Barry Saunders, C&B Designs Ltd, 12 St Margarets Drive, Wigmore, Gillingham, Kent, ME8 0NR

**Application Valid :** 03 March 2014

**8 Week Target :** 28 April 2014

**Conditions/Grounds**

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The facing materials to be used in the development shall match exactly in type, colour and texture those of the existing property.

Grounds: In the interests of visual amenity.

- (3) Before the development hereby permitted is first used, the proposed dormer window shall be obscure glazed.

Grounds: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.



### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

The application was acceptable as submitted and no further assistance was required.

### **Description of Proposal**

The property is a 4 bedroom detached bungalow. The application is for the construction of a pitched roof porch, rear extension, hip to gable alteration and loft conversion with a small flat roof dormer roof extension to one side of the property. Importantly, the proposals do not envisage altering the eaves height or overall ridge height of the current property.

The porch projects 0.7m from the front of the property and is 1.8m in width. The proposed rear extension projects 2.7m and is 6.8m in width. There is one flat roof dormer, on the north side of the property and this is the same height as the ridge of the original dwelling house.

### **Relevant Site History and Description**

The application property is a simple bungalow set amidst a short but continuous row of similar bungalows within the built up area of Borden where this is contiguous with the urban area of Sittingbourne. Other parts of Wises Lane are characterised by two storey houses but there the arrangement of bungalows is consistent and distinctive.

There have been a number of previous applications on the site. Under SW/00/51 an application for a conservatory was approved on 23/2/2000. On 19/3/2008 an application was refused under SW/08/0099 for an extension of first floor accommodation and rear extension.

An application for renewal of roof structure and extension to rear was refused under SW/08/0552 on 18/7/2008. This decision was appealed under APP/V2255/A/08/2092323/WF and dismissed on 30/4/2009. The Inspector noted that the scale, bulk and massing of bungalows near to the property is an important characteristic of the locality, She then considered that whilst the rear extension was acceptable, that by raising the overall height of the property and increasing the bulk of the dwelling at first floor level, the appeal proposal would create a top heavy appearance to the dwelling that would be highly visible and incongruous with the street scene.

On 19/11/2012 an application for a lawful development certificate was refused for the conversion of front hip roof to gables, construction of flat roof dormers onto sides and construction of front porch (SW/12/1210)

An application for a pitched roof porch, rear extension, hip to gable alteration and loft conversion with flat roof dormer roof extensions to the rear and side roofs of the property were refused on 30/4/2013 (SW/13/0302).

Finally, under SW/13/1184 again a very similar proposal to the previous application but this time the roof extension is just on the north side of the property was refused in November 2013. This application was very similar to proposals previously refused, for a pitched roof porch, rear extension, hip to gable alteration and loft conversion. However in this application with the flat roof dormer just on the north side of the property its size has been substantially reduced.

Pre-application Advice was sought from regarding this application.

### **Views of Consultees**

Borden Parish Council raises objection to this application on the following grounds: "The property sits in a community of pensioners; will cease to be a bungalow if permission is granted with the loss of an important facility for the elderly. There is an identified need for bungalows for the elderly in the community".

The Head of Service Delivery requests a condition restricting working hours of construction. However, I do not consider such a condition reasonable on such a householder extension proposal.

### **Other Representations**

I have received two objections from local residents. The comments therein can be summarised as follows:

- This is just another attempt to overcome previous refusals
- This application has no more merit than the earlier applications.
- Drawings difficult to interpret.
- The bungalows in this part of Wises Lane are subject to a Covenant prohibiting the erection of any addition at the front which projects beyond the building line.
- The dormer is on a grotesque and inappropriate scale
- Will overlook to a significant and unacceptable degree the gardens of adjacent properties
- The property has already been extended to the maximum limits permitted.

My concern is that the appearance of the property line will be irrecoverably changed... with those who like to live in the bungalows gradually seeing the 'streetscape' swallowed up in alterations."

### **Development Plan Policies**

The following Development Plan Policies are relevant:

Swale Borough Local Plan 2008

Policy E1 (General Development Criteria)

Policy E19 (Design Criteria)

Policy E24 (Extensions & Alterations)

Supplementary Planning Guidance entitled *'Designing an Extension: A Guide for Householders'*, which is adopted as part of the Local Plan and is referred to in paragraph 3.71 of the Swale Borough Local Plan 2008: as such, it is a material planning consideration when deciding planning applications.

**Discussion**

The property is located within the built up area boundary of Sittingbourne and as such the principle of development is acceptable. The main considerations in the case concern the proposal's design and scale and the impact upon the character of the house and neighbours' amenity. In particular I have considered whether the proposals are at risk of breaching the tests set out by the earlier appeal Inspector or are so reduced as to pass those tests.

The proposal includes altering the side facing roofs of the bungalow from hips to gables which will have a relatively minor impact on the style of the house and the nature of the street scene. The same can be said for the two roof lights proposed on the front elevation, there are a number of roof lights on other properties, which indicate the use of existing loft spaces.

The Borough Council's SPG, at paragraph 5.5 states "Dormers should be in proportion with the roof and only as large as necessary to allow light into the roof space." The dormer proposed in this application extends along the northern side elevation for 2.5m to be hung in plain tiles to match the main roof and to have an opening window of 1200 x 1050 mm. The dormer is flat roofed and at the same level of the existing roof line. This dormer will also be obscured from the street scene because of the proposed gable to the currently hipped elevation.

The SPG in paragraph 6.0 highlights that "side windows should be avoided to reduce overlooking and mutual loss of privacy." The proposal resolves this issue by using obscured glazing on the dormer in the way the SPG refers to this as a way of overcoming the problem.

The single storey rear extension is set away from either side boundary and in accordance with normal standards so that it does not concern me.

With regard to the comments raised by the objectors:

- I do not believe that the application has no more merit than earlier applications. The main reason for refusal on previous applications was the size and bulk of the dwelling; it would look unacceptably larger than neighbouring dwellings. I believe with this scaled back proposal the alterations are modest.

- The drawings are of a clear size and are scaled with annotation, adequate to determine the application.

The Covenants on the bungalows on Wises Lane are not a material consideration in determining this application as they are private matters.

In my opinion the dormer is an appropriate scale and will be hidden from the street scene.

- The SPG in paragraph 6.0 highlights that “side windows should be avoided to reduce overlooking and mutual loss of privacy.” The proposal resolves this issue by using obscured glazing on the dormer. The SPG refers to this as a way of overcoming the problem.
- There are no specific policy limits on levels of extending a property within the built up area.

There will be an acceptable amount of change to the appearance of the property line. The proposed works will not change the original ridge height of the bungalow and the dormer will be obscured from the street. These alterations are modest.

### **Recommendation**

As noted above, I consider this proposal to be acceptable. The scale and design of the roof alterations and even the inclusion of a small flat roofed dormer would have an acceptable impact upon the visual amenity of the area and the amenities of neighbours. I believe the proposal to be worthy of support, and I therefore recommend that planning permission should be granted.

### **Background Papers**

1. Application Papers and Correspondence for Application SW/14/0255
2. Application Papers and Correspondence for Application SW/00/51
3. Application Papers and Correspondence for Application SW/08/0099
4. Application Papers and Correspondence for Application SW/08/0552
5. Appeal decision dated 30/4/2009 ref: APP/V2255/A/08/2092323/WF
6. Application Papers and Correspondence for Application SW/13/0302
7. Application Papers and Correspondence for Application SW/13/1184

- Location :** 10 Cross Lane, Faversham, Kent, ME13 8PN
- Proposal :** Replace the existing window - first floor, front of the building
- Applicant/Agent :** Ms I Williams, 18 Northampton Road, Croydon, Surrey, CR0 7HA
- Application Valid :** 02 April 2014
- 8 Week Target :** 28 May 2014

**Conditions/Grounds**

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) Notwithstanding the drawings submitted, before the development hereby permitted is commenced, detailed drawings of the proposed windows at a scale of 1:20 showing dimensions of all components, and showing how the windows are to be set into the existing wall, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved details.

Grounds: In the interests of preserving and enhancing the character and appearance of the conservation area.

**Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales. In this case the application was approved having first been reported to the Council's Planning Committee.

### **Description of Proposal**

This application seeks planning permission to replace the present aluminium frame first floor window with a pair of traditionally designed sliding sash windows, albeit in upvc, at 10 Cross Lane, Faversham.

The present aluminium framed window is of a very poor quality of design, being of horizontal proportions and with top-hung openings, and is harmful to the character and appearance of this Victorian mid-terrace house. The proposed windows would be of upvc construction, finished in white, and would replace the existing wide window with two narrower sliding sash windows. The present window is quite seriously visually jarring within the context of this terrace, clearly visible from the main car park in central Faversham.

### **Relevant Site History and Description**

As noted above, the property is a C19 mid-terrace house, situated within the Faversham Conservation Area and subject to an Article 4 Direction, hence the need for planning permission.

In late 2013, an application to replace the similarly poorly designed aluminium bay window at the ground floor level with timber sliding sashes was approved under planning reference SW/13/1578, and the Case Officer was pleased to note during his site visit that this has now been implemented. Much as this was a distinct improvement, it visually further emphasises the poor design of the first floor window. During the progress of the previous application, the applicant stated her intention of replacing the first floor window at a later date, and it is therefore pleasing to receive the present application.

There is no planning history for the property, save for the previous application noted above.

### **Views of Consultees**

Faversham Town Council recommends refusal of the proposal, as the proposed materials would be of upvc, rather than timber.

### **Other Representations**

The Faversham Society also recommends refusal, for similar reasons.

No other representations have been received.

### **Development Plan Policies**

The following Development Plan Policies are relevant:

Swale Borough Local Plan 2008  
Policy E1 (General Development Criteria)  
Policy E15 (Conservation Areas)  
Policy E19 (Design Criteria)  
Policy E24 (Extensions & Alterations)

### **Discussion**

The main issue to consider in this application is the effect of the proposed replacement windows on the character of both the building and the conservation area.

Clearly, the proposed windows would be a vast improvement on the existing poorly designed aluminium windows, much more in keeping with the character and setting of the building, and the conservation area, even though they will be finished in upvc.

I note the comments of both the Town Council and the Faversham Society. Much as I also would prefer to see a proposal for timber windows, the proposed upvc windows are of a design which is vastly better than the existing window. Policy E15 of the Swale Borough Local Plan requires proposals within the conservation area to either 'preserve or enhance' the character and appearance of the conservation area. By the use of a more traditional design of window, I would suggest that the proposal does precisely that.

### **Recommendation**

As such, I believe the proposal to be worthy of support, and I therefore recommend that permission should be granted, subject to the conditions noted above.

### **List of Background papers**

1. Application papers and correspondence for SW/14/0158.
2. Application papers and correspondence for SW/13/1578.

- Location :** Wyvern Hall, Central Avenue, Sittingbourne, Kent,  
ME10 4NT
- Proposal :** Change of use from D1 public hall to D2 gym
- Applicant/Agent :** Swale Community Leisure Ltd, C/o Mr Jim Farren,  
Serco Leisure, Tenterden Leisure Centre, Recreation  
Ground, Tenterden, Kent, TN30 6JN
- Application Valid :** 15 April 2014
- 8 Week Target :** 10 June 2014

**Subject to:** Any additional representations (closing date: 29<sup>th</sup> May 2014).

### **Conditions**

- 1) The building shall be used either as a public hall or as a gymnasium and for no other purpose, including any purposes within Class D1 or Class D2 of the Town and Country Planning (Use Classes) Order 1987 (as amended)

Grounds: In order to allow for a flexible use of the building.

### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was acceptable as submitted.

### **Description of Proposal**

This application seeks planning permission for the change of use from D1 public hall to D2 gym at Wyvern Hall, Central Avenue, Sittingbourne. The application particulars state that the use has commenced, and this was confirmed during the case officer's site visit.



The application sets out that the hall is available for 412 hours per month. Bookings and usage total 26 hours per month or 6% of available hours. Of this 6%, 3% can be reallocated within the centre at the exact times, however the remaining 3% (a single hirer) has agreed to be relocated within the centre at a different time should permission be granted. Any future hirers shall be accommodated within the versatile sports hall. A list of local facilities which provide the same function has been submitted to demonstrate that the proposed change of use would not give rise to an underprovision of public halls in the Sittingbourne area.

### **Relevant Site History & Description**

The application site is located within the built up area of Sittingbourne and in Area Action Plan 7 as defined by the Proposal Map of the Swale Borough Local Plan 2008.

The site is located within the central hub of civic buildings and services such as the Swallows Leisure Centre, Library, Post Office, Police Station and the Avenue Theatre.

The planning history for the application site is as follows;

SW/86/0853- new leisure centre and alterations to central house- approved.

SW/95/0067- refurbishment of existing lobby- approved.

SW/05/0351- four condensing units to serve new dance studio proposals within existing building- approved.

SW/11/1416- Lawful Development Certificate for the installation of 152 solar panels to roof (Proposed)- approved.

### **Views of Consultees**

None have been received.

### **Other Representations**

The Sittingbourne Society objects and its comments are summarised as follows:

- Wyvern Hall is a valuable local facility which local organisations rely on. The alternatives listed are either not in Sittingbourne or are much smaller which are regularly booked for various purposes. Nowhere in the town is there another hall with Wyverns capacity.
- The objective seems to be to convert the whole complex into a sports/fitness facility which benefits the younger generation and not the older generation who look for accommodation for social purposes.
- Presumably this is primarily a money making venture with no regards to the towns social needs. Hopefully this will be refused and the centres management will improve the facilities to make them more attractive to hirers.

Two further letters of objection have been received from residents which are summarised as follows;

- It's a pity the hall may be lost for functions.
- The main problems are associated with parking which could explain the poor take up. I appreciate it is underused but it would be a pity to lose the hall as the town is growing and it could be required in the future.
- The list of alternative facilities is merely window dressing and it seems this application is very largely a money making exercise.

The deadline for comments is 29<sup>th</sup> May therefore I will update Members at the meeting if any further letters are received.

## **Policies**

### **National Planning Policy Framework (NPPF)**

The NPPF is relevant in relation to sustainable development, economic and social considerations.

### **Swale Borough Local Plan 2008**

Policies E1, T3, C1 and AAP7 are relevant to this proposal.

## **Discussion**

The objectors concerns are noted and are considered below.

Local Plan Policy C1 states that permission will not be granted for the change of use of local community facilities where this would be detrimental to the social well being of the community, unless a suitable and equivalent replacement facility is provided in a location and time agreed with the Council. Before granting permission the Council requires evidence that the current use is no longer needed and is neither viable nor likely to become viable.

In my opinion, the information submitted with the application demonstrates that the existing users can be accommodated within the same complex of buildings with little impact. There are suitable and equivalent facilities, in particular the sports hall which is larger than Wyvern Hall, which are available now. Demand for Wyvern Hall is very low at 6% and is clearly unsustainable in my view. The Cherry Suite, Bar Lounge, Wyvern Hall Meeting Room, Projectile Hall and the aforementioned Sports Hall are all available within the complex as alternative facilities.

There are no nearby residential dwellings and therefore no impact on residential amenity.

The parking demands of the existing public hall use and proposed gym use are similar and do not give rise to concern in my opinion because of the substantial availability of car parks in the area including the Swallows car park, Central Avenue car park and Sainsbury's car park. The impact on highway safety and convenience is acceptable in my view.

Nonetheless, the proposal would in the loss of a substantial public hall. Other facilities, away from the Swallows complex are available within and around Sittingbourne, but none of a similar scale. I recommend that the above condition be imposed. This would allow the hall to be put to use either as a public hall or as a gymnasium. This would allow the operators of the facility flexibility in how it could be used. I would not normally advocate such an approach. However – in this instance, I do not consider there to be any material planning harm from granting a flexible planning permission i.e. from a public hall to either a public hall or gymnasium use . There are no dwellings nearby, there is sufficient parking in the vicinity for either use, and the proposed use as a gym would not give rise to any substantial physical alterations within the hall which would prevent its use as a public hall – the gym equipment would be removable. As such, I consider a flexible approach here is warranted.

The proposal would have a neutral impact under the terms of Local Plan Policy AAP7 because it would consolidate its position as a centre for community uses.

### **Recommendation**

The proposal is acceptable in principle in my opinion because there would be minimal harm to the social well being of the community. The proposal complies with the objectives of Local Plan Policy AAP7 and the parking implications are minimal and acceptable. There are no nearby residential dwellings to affect.

Having regard to all material planning considerations, I recommend, subject to the receipt of any additional representations (closing date 29th May 2014) that planning permission be granted.

### **List of Backgrounds Documents**

1. Application papers and correspondence for SW/86/0853, SW/95/0067, SW/05/0351, SW/11/1416 and SW/14/0501.

- Location :** Sainsbury's Superstore, Bysing Wood Road,  
Faversham, Kent, ME13 7UD
- Proposal :** The construction of an extension of 213 sqm to the eastern elevation of the existing store to be used for an ancillary customer cafe.
- Applicant/Agent :** Sainsbury's Supermarkets Ltd, C/o Miss Alice Broomfield, WYG Planning and Environment  
100 St John Street, London, EC1M 4EH
- Application Valid :** 24 March 2014
- 8 Week Target :** 19 May 2014

### Conditions

**SUBJECT TO:** the views of Kent Highway Services (closing date 6 June 2014)

### CONDITIONS

- 1 The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in complete accordance with drawings CHQ.13.10160 – PL01; CHQ.13.10160 – PL03; and CHQ.13.10160 – PL05.

Grounds: For the avoidance of doubt.

- 3 The facing materials and colours used on the development hereby permitted shall match exactly those on the host building.

Grounds: To ensure that the appearance of the extension matches that of the main building in the interests of visual amenity

### During Construction Conditions

- 4 No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity

#### Post Commencement Conditions

- 5 No additional external lighting shall be installed unless a design and specification for the lighting has been submitted to and approved in writing by the Local Planning Authority.

Grounds: In the interests of the amenities of the area.

- 6 The use of the extension hereby permitted as an ancillary customer café shall be restricted to the hours of 07:00 to 23:00 weekdays and Saturdays and 09:00 to 16:00 on Sundays and Bank Holidays.

Grounds: To align with the approved hours of use of the main premises and in the interests of the amenities of the area.

- 7 The extension the subject of this permission shall be used only for the purpose of an ancillary customer café and for no other purposes, including any other purposes in Classes A1, A2 or A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 ( as amended).

Grounds: In accordance with the terms of the application and to align with the approved use of the main premises and in the interests of the amenities of the area.

#### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was approved as submitted.

#### **Description of Proposal**

This is an application for an extension to the main building to provide an ancillary customer café at Sainsbury's, Bysing Wood Road, Faversham.

The proposal is for an ancillary café, to provide hot and cold food and drinks to be consumed on the premises. The proposed extension would be situated on the north eastern side of the building, with a floor area of 213 square metres, providing sixty six covers. The proposed materials would replicate those on the existing building. Nineteen car parking spaces would be lost by the construction of this extension.

The proposal is accompanied by a Design & Access Statement, a Retail Assessment and a Technical Assessment. The lengthy and detailed Retail Assessment is particularly important in this case, as it clearly assesses the impact that the proposal would have on the vitality and vibrancy of the town centre.

The technical note states that the car park provides maximum parking provision for a store of this size and that on average only 50 per cent of the spaces are occupied. It concludes that even if the extension were built the car park will be more than adequate to meet predicted parking demand.

The Retail Assessment, drawing on experience of a similar development in Bradford –upon-Avon, concludes that the development will not have any undue impact on the vitality and viability of Faversham town centre, and would primarily attract existing store customers.

### **Site Description & Relevant History**

The site is situated on the junction of Bysing Wood Road and Western Link. This part of Western Link is characterised by a number of warehouse and distribution type buildings, whilst Bysing Wood Road is mainly residential. Opposite Sainsbury's is the West Faversham Community Centre, which amongst other functions also boasts a small café.

The present supermarket is a well-designed and proportioned purpose built modern building, situated within a generous car parking area. It was approved under planning reference SW/09/1119. Condition 3 of that approval stated that '*No ancillary units - including a post office, pharmacy, dry cleaners, café/restaurant photo-processing centre or retail concessions – can be introduced within the store without the prior written approval of the District Planning Authority*'.

### **Views of Consultees**

Faversham Town Council raises no objection.

I await the comments of Kent Highway Services and will report further at the meeting.

### **Other Representations**

Three letters and emails of objection have been received from local residents. The comments contained therein may be summarised as follows:

- Not needed – in excess of eight such establishments in the town at around a mile away

- Such a cafe was banned when the store was built so as not to draw trade away from the town centre
- Loss of 19 parking spaces would make it harder to park at peak times
- Increased traffic congestion
- Will take custom from town
- Would affect the café at the nearby Community Centre
- When the store was built, the noise from the works was bad, as was vibration from pile driving
- Constant noise affected my mother's health
- Will be an excuse for teenagers to hang around, which is already a problem
- Will create litter

Three letters and emails of support have also been received:

- The store should have had a cafe when built
- The Community Cafe is not convenient when you have heavy shopping bags
- Most cafes are within the town centre
- Further employment within the local community
- This supermarket is really involved with the community
- *'If Tesco is allowed a Costa, why not?'*
- *'Great for the locals'.*

### **Relevant Planning Policies**

The following saved policies of the Swale Borough Local Plan 2008 are relevant to this development;

- E1 – General Development Criteria
- E19 – Design Criteria
- B1 – Supporting existing businesses
- B2 – Providing for new employment
- B3 – Viability and vitality of Town Centres
- B4 – New Retail Development

### **National Planning Policy Framework (NPPF)**

Paragraph 19 – Supports sustainable economic growth.

### **Discussion**

In my view the relevant planning considerations for this proposal constitute the balance between residential amenity, the impact on the town centre and the business needs of the applicant.

Firstly, it must be remembered that the building is already in situ and its use is already established; the proposal is for a modest extension to that building, and the use of the original building would remain the same.

In terms of design, the proposal would continue the same style of the existing building which is contemporary in design. The design of the original building was

much debated before the 2009 permission was granted, with Officers achieving a much higher standard of design than that which was originally submitted. The present application follows that existing design.

The extension would be situated almost as far as possible within the site from the nearest residential properties, thus minimising any detrimental effect on residential amenity both during and after construction.

I await the formal views of Kent Highway Services, and will report these to the Committee. However, whilst I acknowledge that nineteen car parking spaces would be lost to enable this development, even at weekends the car park is never full to capacity, having an ample amount of spaces. Nor do I consider that the provision of a small café will lead to a noticeable increase in traffic. I am unaware of any problems of congestion in and around the site.

I accept that the original permission included a condition which would not allow any other ancillary services for the site, but I am of the opinion that this condition was included as the impact of the store was an unknown factor, and the primary concern was to protect the vitality of the town centre. It would appear that since construction of the store, the mile or so distance between the site and the town centre has led to little effect on the vitality of the town centre. I am therefore of the opinion that the present proposal will have little effect on the town centre and that the café is most likely to be used by customers of the store.

The preamble to Policy B3 of the Swale Borough Local Plan 2008 (SBLP) includes the following: '*Shops can be found on local parades or in neighbourhood and village centres, or on their own in residential streets...shops in all these locations play an important role in catering for those without a car.*' To add a café can only enhance the attraction that the supermarket would have for shoppers, thus promoting the issue of local jobs. It is envisaged that six to eight new jobs will be created by the proposed café.

Policy B4 of the SBLP states that proposals for new retail development should demonstrate '*by a retail impact assessment and other studies, that a need exists for the proposal and that it would not individually, or cumulatively with those trading or proposed, undermine the viability of the existing town centres*'. The Retail Assessment accompanying the proposal has clearly addressed this matter, noting that the town centre is '*thriving and viable*', and noting that the proposed café would not be in direct competition with the A3 restaurant/café units in central Faversham, due to the distance between the two points.

I acknowledge the concerns raised with regard to the effect of the proposed café on the existing café situated within the West Faversham Community Centre (WFCC), but I am of the opinion that people visiting the WFCC would be unlikely to leave the building, cross the road and go to Sainsbury's for their refreshments, just as Sainsbury's customers are unlikely to do so in reverse. The Community Centre has understandably invoked a sense of civic pride and loyalty for many local people, and I do not believe that this sense of loyalty would be removed by the creation of a café at Sainsbury's. I note that no response to the consultation process has been received from the Trustees of the WFCC.



### **Recommendation**

In my view, subject to the conditions above, and to the receipt of the formal views of Kent Highway Services, this proposal is acceptable and would lead to the continued successful business use already established in this location.

Taking the above into account I recommend that planning permission is granted.

### **List of Background papers**

1. Application papers and correspondence relating to SW/14/0371.
2. Application papers and correspondence relating to SW/09/1119.

- Location :** New Bungalow, Staple Street Road, Dunkirk, Nr Faversham, Kent, ME13 9TJ
- Proposal :** Extension and refurbishment of existing bungalow and the provision of 3 new dwellings.
- Applicant/Agent :** Mr & Mrs Paul & Liz Lloyd, C/o Mr David Hayward, 2 Dane John, Canterbury, Kent, CT1 2QU
- Application Valid :** 03 October 2014 and as amended by drawings received 5 February 2014
- 8 Week Target :** 28 November 2013

**Conditions**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.  
  
Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby approved shall be carried out in accordance with the following approved drawings: 13/39/01; 13/39/02 REV A; 13/39/05; 13/39/06; 13/39/07; 13/39/08; 13/39/09 REV A.  
  
Grounds: For the avoidance of doubt and in the interests of proper planning.
3. Prior to the commencement of development, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.  
  
Grounds: In the interest of visual amenity.
4. Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Grounds: In order to secure a satisfactory form of development having regard to the sloping nature of the site.

5. Prior to the commencement of development hereby approved, a programme for the suppression of dust during the construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Grounds: In the interests of the visual amenities of the area.

6. No development shall take place until full details of the method of disposal of foul waters has been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Grounds: In order to prevent pollution of water supplies and localised flooding.

7. Prior to the commencement of development hereby approved, full details of both hard and soft landscape works showing additional planting on the northern and western boundary and a 1.8m high screen fencing between New Bungalow and Hamesha, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme, .

Grounds: In the interests of the visual amenities of the area.

8. Prior to the works commencing on site details of parking for site personnel / operatives / visitors shall be submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.

Grounds: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents.

9. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is commenced

Grounds: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and to protect vulnerable groundwater resources.

10. No development shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

Grounds: In the interest of promoting energy efficiency and sustainable development.

11. As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

Grounds: In the interests of highway safety.

12. Piling or other foundation designs using penetrative methods shall not be permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Grounds: To protect groundwater from potential contamination.

13. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 -1900 hours, Saturday 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Within these hours no impact pile driving shall take place other than within the hours of 0900 to 1700 on Monday to Fridays only.

Grounds: In the interests of the amenities of the area.

14. The areas shown on drawing 13/39/02 REV A hereby approved as parking and garage space, and cycle parking facilities, shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by The Town and Country Planning (General Permitted Development) Order 1995 or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this reserved

area; such land and facilities, and access thereto shall be provided prior to the occupation of the buildings hereby permitted.

Grounds: The development, without the provision of parking space, would be detrimental to amenity and likely to lead to inconvenience and danger to road users by virtue of vehicles parked on the public highway amenity.

15. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Grounds: In the interests of the visual amenities of the area.

16. Upon completion of the approved landscaping scheme, any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area.

17. Upon completion, no alterations to the dwellings, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Grounds: In the interests of the amenities of the area

18. Any excavation beneath the canopies of trees which are intended to remain or within one metre of any canopy edge shall be done by hand. Existing tree roots exceeding 2" in diameter shall be left bridging trenches and pipes and services shall be inserted under the roots. Any roots that may be accidentally severed shall be trimmed, cleaned and sealed with a bitumastic sealant.

Grounds: In order to protect existing trees which are considered to be worthy of retention.

### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

The application – incorporating amendments made following discussions with officers - was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

### **Description of Proposal**

Planning permission is sought for the extension of New Bungalow and the provision of three dwellings in its garden. It is proposed to create a new access to the site from Dawes Road which would serve the new properties. As originally submitted the application proposed two tall chalet bungalows within the site (Units 2 and 3) but these have now been designed as low height bungalows, significantly reducing their impact. However, a number of representations reported below still relate to the scheme as first submitted.

The proposed extensions to the front and rear of New Bungalow would create a three bedroom bungalow with a large open plan lounge and cinema area and dining and kitchen area, measuring approximately 23 metres by nine metres. Two parking spaces are proposed as well as a garage and storage area.

Unit 1 would be located adjacent to 2 Dawes Road with a new proposed access road into the site situated between 2 Dawes Road and Potters Corner.

Unit 1 (located on Dawes Road) would be a three bed chalet bungalow with a ridge height of 7.5 metres. Two bedrooms would be located in the roof slope of the building and two rooflights are proposed on the southern roof slope. The kitchen-diner, lounge, downstairs bathroom and study/bedroom 3 are located at ground floor. Unit 1 would have a separate access off Dawes Road and two parking spaces are provided.

Following the amendments to Units 2 and 3, their ridge height has been reduced from 8.2 metres to 4.5 metres to create bungalows with no upper floor accommodation. Both units would provide three bedrooms, a living/dining area and a kitchen area. A natural slate roof is proposed over horizontal timber cladding and rendered elevations. Unit 2 and 3 mirror each other in terms of the layout. The side windows (one on each side elevation for Units 2 and 3) have been designed in a manner to avoid overlooking. No windows directly overlook any of the adjacent properties.

The side elevation of Unit 2 facing towards the adjacent property Hamesha (an adjacent dwelling), is located approximately 4 metres from the southern boundary of the site, so a minimum distance of approximately 13 metres is created between the two properties. No side windows would overlook Hamesha.

The side elevation of Unit 3 is located 5 metres from the northern boundary of the site and no side windows would look directly onto the garden of the adjoining property Applegarth. The site level at Units 2 and 3 are lower than at Applegarth by approximately 0.5 metres resulting in the ridge height of the new bungalows being 1.7 metres lower than at Applegarth.

Two visitor parking spaces have been provided within the site. Extensive landscaping is proposed for most of the site including a new hedge along the footpath which runs along the southern boundary of the site. It is proposed to retain many of the mature trees on the site and replanting would also take place.

### **Relevant Site History and Description**

The site is located within the continuous built-up area boundary of Boughton and Dunkirk and currently forms part of the residential garden of New Bungalow. The site is sloping in nature, most notably downwards from north-eastern edge of the boundary of the site and from the northern boundary towards to the southern boundary. A public right of way runs along the southern site boundary.

New Bungalow is currently accessed off Staple Street Road and consists of one bedroom, a study, dining room, bathroom, living room and a kitchen. Parking is located on an area of hardstanding to the front of the property for two 2 cars.

The properties located directly adjacent to the site on the northern boundary are simple bungalows with small rear gardens, their main gardens being located to the side of the properties. Hamesha is located adjacent, and immediately to the south-east, of New Bungalow and has a rear garden of approximately 6 metres to the edge of the southern boundary of the site.

SW/12/1059- application for 3 units- withdrawn following officer advice in relation to the scale of the development and siting within the site.

SW/08/1157- outline planning permission granted for a dwelling on land adjacent to Dawes Road (similar position to the now proposed Unit 1).

### **Views of Consultees**

Dunkirk Parish Council raises an objection to the proposal and makes the following summarised comments on the proposal as originally submitted:

- The surrounding open land would need to cope with 45-50% extra water and on the clay, we would suggest that would exacerbate flooding issues, especially as much of the surface water is dealt with by soakaways
- Dawes Road is a rural lane and deserving of special protection
- Potentially an extra 28 vehicle movements a day
- Concerned about distance between properties
- The heights of units 2 and 3 are still excessive in an area of predominately bungalows
- The sharp pitches are visually unattractive and will impact on the visual amenity of the surrounding properties
- Access arrangements are not acceptable
- Road safety concerns- narrow lane with no footpath
- Concerned about stability of the land and land movement- potential impact on the surrounding neighbouring properties
- Concerned about the current services coping with the extra houses
- Concerned about future landscape maintenance

- Application site is located on the boundary to an area of high landscape value
- The owners of No 2 Dawes Road and Applegarth will be denied most of their available daylight for both the houses and their garden and loss of visual amenity
- The proposed dwellings are inappropriately large and of poor roof form for such a semi-rural area

Following the re-consultation on the amended plans the Parish Council made the following summarised comments:

- Changing Units 2 and 3 to bungalows, with a larger footprint and re-siting them further to the east has made the development much more acceptable
- Parking areas are simplified
- Height reduction limits the loss of visual amenity
- Unit 1 is still too tall and access remain unacceptable
- Drawings appear incorrect- siting of Hamesha in relation to the southern boundary

The County Council's Rights of way Officer notes that a public footpath runs beside the site and that the applicant intends to plant a hedge alongside the path. He has no objection to this but recommends that the hedge is sufficiently far from the path to allow the hedge to grow and that a planning condition be imposed preventing the hedge growing too tall, possibly creating an unwelcome narrow alley.

Head of Service Delivery raised no objection subject to conditions on hours of construction and dust suppression.

I have not received any comments from Southern Water and Kent Highway Services on this application, but I will update Members at the meeting if views are received. I am aware that the applicants did spend quite some time with Kent Highways Services in pre-application consultation and I do not anticipate any objection on highway grounds.

### **Other Representations**

11 letters of objection making the following summarised comments:

- Increase of traffic unacceptable in this location
- The lane is extremely busy and barely wide enough for two cars
- Access location is unacceptable - possible traffic hazards
- Very likely that roadside parking will occur due to the limited parking provision proposed
- Unacceptable traffic generation in particular if The Manor House development proceeds, all cars will use Dawes Road
- Size of the proposed development is unacceptable- site lies adjacent to an area of high landscape value
- The development is too large for the existing infrastructure
- Loss of privacy and overlooking
- Loss of privacy to Applegarth (adjacent to application site) - garden is 4 metres deep, dwellings would be located extremely close to the boundary



- Loss of natural light for the houses and gardens
- Loss of natural heat - heating bills will go up
- Concerned about the details of the proposed landscaping
- Disturbance of land may lead to future subsidence- history of land slippage in this area due to the clay soil type
- Potential structural movements- some properties have already been underpinned in this area
- Full geological survey should be undertaken prior to development- the Council could be liable at a future date
- Extra strain on the sewage and drainage system
- Threat of flooding- reduction of natural soakaways
- Potential for gas leaks and water leaks resulting in road closures
- Loss of property value
- Disruptions during construction phase
- Insufficient local school places

Following some amendments to the proposal, reconsultations were carried out on the amendments. Subsequently an additional 9 letters of objection were received whose comments can be summarised as follows:

- Traffic impacts
- Subsidence concerns
- Sewer capability concerns
- Increased risk of flooding due to reduction of land where water can drain away and the corresponding increase in concrete
- The revised plans still do not address a number of the fundamental concerns, notably road safety due to access/exit and the issue of over-development, particularly in light of other potential planning applications in the vicinity
- Loss of sunlight
- Loss of privacy
- Access via Dawes Road is not an option
- Very tight rural space

## **Policies**

The Development Plan principally comprises the saved policies of the Swale Borough Local Plan 2008. The saved policies of the Swale Borough Local Plan 2008 referred to below are relevant to this development.

The NPPF was released in March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework”*.

The 12 month period noted above has expired and as such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of

determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

At paragraph 17 it states that:

*'That planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.'*

Paragraph 56 states that:

*'The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.'*

#### Swale Borough Local Plan 2008

SH1 (Settlement Hierarchy)

E1 (General Development Criteria)

E9 (Quality and Character of Boroughs Landscape)

E19 (Design Criteria)

H2 (Providing for new housing)

T1 (Providing safe access for new development)

T3 (Vehicle parking for new development)

Dawes Road at this point is not designated as a rural lane so policy RC7 is of limited significance.

#### **Discussion**

My main considerations in the determination of this application are principle of the development, the design, highway considerations and the impact of the development on the surrounding area and residential amenity.

#### Principle of the development

The principle of this proposal is acceptable as it proposes three new dwelling within the continuous built up area boundary of Boughton and Dunkirk as defined in the adopted Swale Borough Local Plan. Any new proposals for residential development are expected to make the most efficient use of land and provide a range of house types and sizes appropriate to the location and nature of the site. Policy SH1 (Settlement hierarchy) allows for new development on suitable sites that do not harm the settlement pattern or character of the surrounding countryside. The site is located adjacent to the edge of the built-up area boundary and as such I consider the use of the site for housing acceptable in this location and in accordance with policy.

The proposed site layout ensures that there is no significant harm to the settlement patterns and the character of the surrounding area.

Therefore, the main considerations to focus upon in this case are whether the proposal is acceptable in design for the site, whether it has sufficient amenity space,

whether it would cause harm to neighbouring amenity and if it is acceptable in highway safety terms.

### Impact on the amenity

I note the comments made by a number of local residents, in particular ones living adjacent to the application site. However, the proposed units have been designed in such a manner as to avoid unacceptable overlooking and loss of privacy to the adjacent dwellings. The two side windows that are proposed on units 2 and 3 have been angled to allow light into the properties but also ensure that the outlook onto any adjacent dwellings is not significant. In addition to this the rear elevation of Hamesha, located adjacent to Unit 2 is located in excess of 11 metres from the side elevation of Unit 2 with no direct overlooking views.

I have fully considered the impact of the proposed Unit 3 on 2 Dawes Road and Applegarth due to the small rear gardens of these existing properties. However I am of the view that any impact is greatly reduced due to the sloping site levels which ensures that the roof ridge line sits lower than the properties along Dawes Road.

I consider the introduction of an additional chalet bungalow along Dawes Road to be acceptable in terms of the impact on the adjacent dwelling. The bungalow has been sited in line with the other properties and therefore has no adverse impact.

The garden to New Bungalow extends to some 0.29 hectares and is therefore large enough to support the inclusion of three modest-sized units without creating a development that appears to result in the overdevelopment of the site.

In my opinion the landscape proposals respect the character of the existing garden of New Bungalow and many trees will be retained which is welcomed in this location. Furthermore I have suggested a landscaping condition to ensure an acceptable standard of landscaping on all boundaries of the site in particular along the boundary with the public footpath.

I consider the impact of the development on properties located adjacent to the site along Berkeley Close to be neutral as the properties are already facing out on to a residential garden area. The proposal does not result in any overlooking from any windows on to these properties. The introduction of a hedge to run alongside the footpath (the footpath appears to not be used frequently) is welcomed and provides some new screening for all of the existing and proposed properties located in this area.

The proposed extensions to the existing New Bungalow have little impact on the surrounding area and though quite large have been well designed and respect the site layout as a whole.

### Design considerations

I note some of the concerns raised in relation to the scale and the number of units proposed on this plot. I am of the view that the development would fit well within the site and the surrounding context. The creation of an additional dwelling, namely Unit 1 accessed off Dawes Road, is a logical approach to utilising the available road frontage in this area and the principle has already been approved in the 2008 application. The chalet bungalow would fit in well with the other properties along Dawes Road.

Following discussions with the case officer the proposal has been amended to change Units 2 and 3 to bungalows with no upper floor space to ensure that the impact in terms of scale and massing was reduced when viewed in context with the site and the surrounding area. These units are well designed and feature some interesting design features and use of materials which in my opinion will complement the surrounding area. The use of timber cladding breaks up the façade of the proposed dwellings.

I am of the view that the development has been well designed, and amended, to fit in with the surrounding area and would not have a detrimental impact on the surrounding designated high landscape area.

A previous scheme for a similar proposal was withdrawn following officer advice in relation mainly to the scale of the proposal. In my opinion this amended scheme, following some revisions now is acceptable and overcomes my previous concerns.

### Highway impacts

I note the concerns raised about the extra traffic associated with the proposed development and the site access being located on Dawes Road. I am of the view that the increase in traffic along this well used lane is acceptable and will not result in highway safety concerns. In addition, the proposal is for three units within the built-up area and as such a small increase in the traffic movements is acceptable in this area. The proposed access to the site of Dawes Road is a logical entrance point to the site rather than from Staple Street Road on a sharp bend.

I am currently awaiting comments from Kent Highway Services in relation to visibility concerns and the stability of the road and will update Members at the meeting. However, though Boughton Hill has experienced movement which have recently led to stability reinforcement works taking place, I am of the view that the slight increase in traffic movements is unlikely to have any significant impact on the stability of the road.

### Other considerations

I am awaiting comments from Southern Water in relation to the ability of the existing drainage network to support the additional units in this area and will update Members at the meeting. I am of the view that three extra dwellings in this area, which is already connected to an existing network of utility services, are unlikely to have a significant impact on the capability of the utility services.

I also note the concerns in relation to the disruption during the construction phase which is not a material planning consideration to warrant a refusal. Furthermore, I have added a condition limiting the hours of construction.

### **Recommendation**

In my opinion the proposal makes good use of the site and fits in well with the character of the surrounding area whilst creating an attractive design element to this area of Dunkirk. The proposed units have been well designed and ensure that there is minimal impact on the surrounding residential amenity.

I note local concerns, but do not consider them sufficient to justify refusal of permission in this instance.

I therefore recommend, subject to clarification sought from Kent Highway Services on the carriageway impact and road stability, and outstanding comments from Southern Water, that planning permission be granted.

### **List of Backgrounds Documents**

1. Application papers and correspondence for SW/13/1250.
2. Application papers and correspondence for SW/12/1059.
3. Application papers and correspondence for SW/08/1157.

- Location :** Manor House, Staplestreet Road, Dunkirk, Nr Faversham, Kent, ME13 9TJ
- Proposal :** The proposed development of this site comprises of six new properties; four detached and two semi-detached along with the restoration of the existing Manor House
- Applicant/Agent :** Mr S Pentecost, C/o Mr K Owen, OSG Architecture Ltd Wyesplan Building, Occupation Road, Wye, Kent, TN25 5EN
- Application Valid :** 01 April 2014 and as amended by letter and drawings received 20 and 21 May 2014

**8 Week Target :** 27 May 2014

**SUBJECT TO: Views of the County Archaeological Officer and Kent Highway Services.**

### **Conditions**

#### CONDITIONS/GROUNDS

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.  
  
Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby approved shall, subject to compliance with other conditions of this permission, be carried out in accordance with the approved drawings 13/0142 – P – 10, 13/0142 – 50 Revision C, 13/0142 – 51, 13/0142 – P – 100, 13/0142 – P – 101, 13/0142 – P – 102, 13/0142 – P – 103, 13/0142 – P – 110, 13/0142 – P – 111, 13/0142 – P – 120, 13/0142 – P – 121 Revision A, 13/0142 – P – 130, 13/0142 – P – 131 Revision B, 13/0142 – P – 140, 13/0142 – P – 141 Revision A, 13/0142 – P – 150, 13/0142 – P – 151 Revisions A, 13/0142 – P – 160 and 13/0142 – P – 161.  
  
Grounds: For the avoidance of doubt and in the interests of proper planning.
3. Prior to the commencement of development, details in the form of samples of external finishing materials and joinery to be used in the development hereby approved shall be submitted to and approved in writing by the Local Planning

Authority and works shall be implemented in accordance with the approved details.

Grounds: In the interest of visual amenity.

4. Details in the form of cross-sectional drawings through the site, and showing the existing and proposed finished floor levels of all units, shall be submitted to and approved in writing by the Local Planning Authority before work commences. The development shall be completed strictly in accordance with the approved levels.

Grounds: In order to secure a satisfactory form of development having regard to the sloping nature of the site.

5. Prior to the commencement of development hereby approved, a programme for the suppression of dust during the construction of the development shall have been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Grounds: In the interests of the visual amenities of the area.

6. No development shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Grounds: In order to prevent pollution of water supplies and localised flooding.

7. No development shall take place until full details of the foundations designs have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented as part of the development.

Grounds: In order to prevent the development leading to instability of adjoining land and properties.

8. Prior to the commencement of development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Grounds: In the interests of the visual amenities of the area.

9. Prior to any works commencing on site a detailed scheme of construction vehicle access to the site, and parking for site personnel / operatives / visitors, showing access to the site by heavy vehicles being restricted to Staplestreet

Road only as far as reasonably practicable, shall be submitted to and approved by the Local Planning Authority. Upon approval access to the site by construction traffic shall be controlled to accord with the approved scheme throughout the construction of the development.

Grounds: To minimise the amount of heavy construction traffic accessing the site via Dawes Road, Stoney Road and Berkeley Close in the interests of the amenities of the area.

10. The dwellings hereby approved shall be constructed to Level 3 of the Code for Sustainable Homes or an equivalent standard and prior to the occupation of any of the dwellings the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved unless otherwise agreed in writing by the Local Planning Authority.

Grounds: In the interest of promoting energy efficiency and sustainable development.

11. As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority.

Grounds: In the interests of highway safety.

12. The areas shown on the submitted plan (drawing number 13/0142 – 50 Revision C) by dark shading as car parking spaces, and the car ports also shown on that drawing, shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

Grounds: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity.

13. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 -1900 hours, Saturday 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Within these hours no impact pile driving shall take place other than within the hours of 0900 to 1700 on Monday to Fridays only.



Grounds: In the interests of the amenities of the area.

14. Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Grounds: In the interests of the amenities of the area.

15. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Grounds: In the interests of the visual amenities of the area.

16. Upon completion of the approved landscaping scheme, any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area.

17. Notwithstanding the results and recommendations of the Bat Survey by Bramley Associates dated November 2013 no development shall be carried out until a mitigation strategy for protecting the bat population on the site has been submitted to and approved by the Local Planning Authority. This strategy shall include proposals for safeguarding and/or replacing, or for the provision of supplementary bat roosts, and for safeguarding and enhancing bat flight paths including the limitation of lighting on these areas.

Grounds: To ensure the retention of protected species.

18. Notwithstanding the provisions of Article 3 and Schedule 2 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) no further alteration to or extension of the southern elevation of The Manor House shall be carried out.

Grounds: In the interests of the visual amenities of the area.

19. Notwithstanding the provisions of Article 3 and Schedule 2 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) no fencing or other means of enclosure above 1m in height shall be erected within 1m of the Staplestreet Road carriageway edge.

Grounds: In the interests of the visual amenities of the area.

20. All trees to be retained must be protected by barriers and ground protection at the recommended distances as specified in BS5837: 2012 'Trees in relation to design, demolition and Construction - Recommendations' before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Grounds: To safeguard the existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

Following considerations of local representations, Development Plan policy, ecological matters, local ground conditions, and receipt of amendments to the scheme, it was considered to be acceptable and was approved.

### **Description of Proposal**

This fully detailed application proposes the renovation and minor alteration of The Manor House, a traditionally designed detached house set in a large garden, and the erection of six new houses in the grounds. Four of the houses would be detached (one with 5 bedrooms and three with 4 bedrooms) with two being semi-detached with 3 bedrooms each.

The new houses would be traditionally designed in weatherboarding and/or brick facings under plain tiled roofs with timber windows. Following withdrawal of an earlier application and pre-application discussions, roofs are generally hipped and multi-pitched to keep overall heights and massing down to respect the small scale vernacular style of The Manor House. Sectional drawings across the site to indicate the relative heights of the various new houses are provided.

The Manor House sits immediately adjacent to Staplestreet Road and at right angles to it, so that the south facing original front and north facing rear elevations are plainly visible from up and down the road. The Manor House is currently mainly accessed from the rear and this scheme maintains that direction of approach, leaving a generous garden (15m x 20m) to the south and leaving the current clear view of the

front of The Manor House undisturbed. The new houses are set with rear gardens to Staplestreet meaning that distances to houses opposite exceed normal privacy standards and that the rear elevation of The Manor House will also remain visible. These factors preserve the clear views to the building that other forms of development might have interrupted.

Each new house will have at least a 10m long rear garden, and those to the southern end of the site have longer gardens. This both reflects the alignment of the front elevation of The Manor House and reduces the impact on privacy of the adjoining bungalow to the south of the site.

Each house would have either a garage or car port with some additional open parking spaces creating 13 individual car parking spaces in addition to 2 integral garages, and multi-car private courtyards for the 5 bedroom house and for The Manor House itself. This more than meets current parking standards for 2 spaces for each new house plus 2 visitor spaces across the site in this location.

At the moment The Manor House has a small poor standard vehicular access/parking space from Staplestreet Road – a narrow road with no pavements – and the proposal is to close this access and bring all traffic to the new development in from a new access on the outside of a long curve in the modern cul-de-sac of Berkeley Close on the opposite side of the site. This involves all traffic from the main village direction passing The Manor House and travelling via Dawes Road (also narrow and without pavements – but not designated as a rural lane at this point), Stoney Road and then Berkeley Close to reach the site.

The grounds of The Manor House feature a number of small orchard style trees in two main clusters. Whilst most of these would be lost, some along the southern part of the site could remain, and the scheme allows scope to restore the hedges along the Staplestreet boundary of the site, creating a continuously hedged streetscene.

The application is supported by a Design and Access Statement, a report regarding a Geo-Environmental Ground Investigation of the site, and a Bat Survey as bats are known to roost on the loft space of The Manor House. From these documents I have drawn the following points.

The site is situated within the built up area of Boughton on a plot of 0.31 hectares, a plot dramatically larger than other nearby properties, offering considerable scope to develop new properties

The Manor House is a well-preserved brick and tile early nineteenth century cottage

The Manor House is not a listed building but is considered to be a non-designated heritage asset

The scale and context of the development is not out of proportion to the style in the vicinity and the site is of a size that can support the proposals without overdevelopment

Eaves and ridge heights of houses have been reduced particularly on the houses adjacent to The Manor House so that they remain subservient to The Manor House

Materials have been chosen to ensure that they do not adversely impact on the character and appearance of the area

The principle of development is in accordance with development plan policies

The application is based on pre-application discussions with planning officers

Bats are known to roost in the loft space of The Manor House, but is intended to retain and add to existing hedgerows to maintain flight lines, with only low level lighting to prevent disturbance to bats

The Geo-Environmental Ground Investigation of the site refers to the development being of 5 properties with gardens and a new road access and car parking areas whereas the application is for 6 new houses

Local ground conditions have been understood and accordingly, piled foundation are proposed, which means that new houses will be free-standing and will not have any effect on the adjoining soil or properties

Local drainage issues and water infiltration rates have been investigated, including trial soakage test pits, and the development will not increase local flood risk

### **Relevant Site History and Description**

The site is located within the defined built-up area of Dunkirk and situated between Staplestreet Road and modern development in Berkeley Close, and is entirely surrounded by existing residential development. It currently forms the very generous residential garden of The Manor House, which is a detached two storey house peculiarly set with its side wall immediately abutting Staplestreet such that both front and rear elevations are clearly visible from the highway. The house has three bedrooms and unusual integral ground floor store and first floor loft spaces neither of which are accessible from inside the house, but the loft area has a first floor door on the roadside indicating that the building was used as more than just a house at some point. The whole property is currently vacant.

Although The Manor House is not a listed building it is a traditionally designed house of some age and character and in original condition. I consider that it should be considered to be a non-designated heritage asset. The site itself is mainly open lawn with some groups of small fruit trees, presenting the appearance of a sparse orchard. It contains a small, brick outhouse and very poor quality garage structure. Access is currently from the narrow pavement-less Staplestreet Road which is otherwise bounded by continuous hedging.

Unsurfaced footpaths run across the northern site boundary linking Berkeley Close to Staplestreet Road, and another runs along the eastern boundary of the site from Berkeley Close to Canterbury Road. The site has a short frontage to Berkeley Close and this is where access to the site is now proposed. Houses and bungalows face the site across Staplestreet Road. A bungalow adjoins the site to the south, a house to the north, and relatively new houses adjoin the site to the east in Berkeley Close.

In terms of site history an application for outline planning permission for 8 houses was received in 2012 under SW/12/1520. This application was withdrawn following officer advice in relation to site layout, highway concerns, impact on the surrounding amenity and impact on Manor House.

A second full application for six new houses was withdrawn in January 2014 (SW/13/1258) after which the current application seeks to address objections raised at that time.

### **Views of Consultees**

Dunkirk Parish Council “for itself and a large number of residents” objects to the application on the following summarised grounds;

On the layout drawing the size of plot 6 is said to be bigger than plot 1 but this appears to be incorrect. They add that the applicant’s Environmental Consultants’ report refers to 5 new dwellings, not 6, so exacerbating problems of the site and overcrowding the environment. Such inconsistencies concern them and make them fear that the scheme will be accurately implemented.

Increased occupancy levels compared to the previous application – 34 to 35 persons both based on 22 bedrooms, with parking increased from 11 to 15 spaces

Loss of garden land and orchard.

The visual amenity of neighbouring properties would be severely disrupted and the open aspect of the area will suffer major visual change.

The Manor House is one of the oldest houses in the village but not a listed building, although many feel that it should be listed as it has interesting architectural features and a bell shaped well in the garden.

However, it and its grounds should be considered as a heritage asset.

Hedges and orchards surround the property. These should be considered as ancient or species rich hedgerows.

The applicant’s bat survey is welcomed and any permission should be subject to conditions regarding Natural England licensing and a bat mitigation strategy. However, the report itself states that bat flight lines should not be disrupted and the proposed houses will do so.

The area suffers from surface water and subsidence problems and some local properties have been underpinned (some twice). Some have installed pumps to carry away surface water and removal of trees and hedgerows will greatly increase these problems.

The Borough Council’s own Rural Sustainability Study indicates that there is no capacity for residential development at Dunkirk “due to the extremely limited facilities and services provided and the linear form of the settlement and the surrounding countryside would be adversely affected. For these reasons it is not proposed to alter the existing built up area boundary.”

The school is already over capacity and it has been stated that there will not be an extra class.

Unacceptably high density/over-development of the site. The houses are too close together compared to previous Officer requirements – as close as 2 metres instead of a minimum of 11m apart.

Access to the site is difficult, Staple Street being narrow with no footway and blind bends either end; yet it is used to access 160 properties currently and it acts as a route to Hernhill and Thanet Way.

The narrow dragway once used for logging adjacent to the site has been used as a pedestrian access to Berkeley Close and a bollard prevents use by vehicles.

Site access is proposed next to this dragway across land in unknown ownership on a 90 degree bend in Berkeley Close, where cars parked on driveways prevent adequate visibility – the refuse lorry actually reverses the whole length of Berkeley Close due to such parking.

Being a cul de sac means children play in the road. Any increase in traffic will be a potential safety risk.

Access will be via Berkeley Close and Dawes Road (a designated rural lane which should be protected from development that will harm it physically or from an increase in traffic) and onto Staple Street leading to an 18% increase in traffic. Access is through a narrow and blind junction which is awaiting repair for subsidence by KCC; extra traffic from this scheme and another nearby will not be acceptable. KCC Highways should be consulted.

The Parish Council further objects on grounds of saved Local Plan policies E1, E5, E9, E10, E11, RC7, T1 (and some unsaved policies) and on the grounds of;

- Non-compliance with SPGs
- Buildings of excessive size
- Designs out-of-keeping with the area
- Adequacy of sewers
- Overlooking and loss of privacy

The Parish Council asks that Members of the Planning Committee should visit the site themselves to consider problems of access and the nature of the site with its historic house asset before making any decision on the application.

The applicant, who met with the Parish Council prior to submission of their first, later withdrawn planning application, has responded to the Parish Council's concerns in a detailed letter. From that letter I draw the following points;

The application has been formulated taking into account pre-application advice from officers

The Manor House is not listed, but has a large plot which will sustain the development. The house is in need of restoration and the development will generate an enabling fund to restore it

The well on the site will be retained and restored as a garden feature for The Manor House

The houses adjacent to The Manor House are kept small in scale to be subservient and further away from the house

The plot sizes are similar to nearby plot sizes and site development density is 19.5 dwellings per hectare, lower than that in Berkeley Close

Distances between properties meet normal standards

The applicant does control the land necessary for access from Berkeley Close. This access point will ease problems for refuse vehicles by offering a turning point

Construction traffic will not need to go further than the existing site access onto Staplestreet Road

Local roads are adequate for traffic from this development

The managed drainage system will require Environment Agency approval, and will prevent surface water creating local flooding

Piled foundations will not trap water passing under the site and will provide a subsidence free solution to the development, preventing adverse effects on adjacent properties

The flight paths of bats will be enhanced with native hedge species, with hedgerows that stimulate insect activity; with low level shielded lighting and no street lighting

I have not yet received any views from the County Archaeological Officer or Kent Highway Services, but I hope to be able to report further at the meeting.

### **Other Representations**

The Faversham Society recommends that the application is refused because the size of the houses would constitute overdevelopment and create a dense development not characteristic of the village, with the street-like appearance of the elevation to Staplestreet Road conflicting with the opposite side of the road.

I have received 24 letters of objection to the application on the following summarised grounds;

- Access is from a safe cul de sac which is itself off a cul de sac. The site access is on a dangerous blind bend which will compromise road safety, especially for children walking to school and who play and ride bikes in the road where the access is proposed
- The refuse lorry has to reverse due to current parking problems
- Staplestreet Road is also a narrow unstable congested route, especially alongside the Manor House, but also the busiest route in the local area. It has a junction with Dunkirk Hill, no footpaths, no lighting, blind bends and narrow and dangerous junctions where numerous minor accidents occur. Cars and lorries have to reverse and pull in to driveways to pass each other causing damage to walls and the route cannot sustain construction traffic or the increased volume of traffic following occupation of the proposed properties
- Dawes Road is a designated rural lane and additional traffic will harm its character – contrary to Local Plan policy RC7
- Extra traffic will make access more dangerous and difficult for existing and new residents, especially during construction, with risks for motorists, pedestrians and cyclists – contrary to Local Plan policy T1
- Local roads have recently been closed due to major repairs arising from the unstable nature of the local London clay subsoil. Extra traffic will aggravate the situation
- The area is blighted by drainage issues arising from massive run off from the woods and seasonal shrinkage resulting in subsidence, movement and flooding to local properties. Surely the development will pave over part of the land and remove trees which will make these problems worse, which renders the site unsuitable for further development
- Our house is currently suffering subsidence resulting from seasonal expansion and shrinkage of the London clay resulting from movement towards the development site, making the Council and developers liable for any future claims.
- Inconvenience and noise during construction, especially for shift workers who are sleeping during the day.

- Extra pressure on one oversubscribed village school, drains, and internet speeds
- Loss of greenfield agricultural land and the orchard. Six houses will use up the entire grounds of the Manor House compromising its historical significance. This is too many houses for the centre of a residential area, and they appear crammed onto a small plot, one being far too close to The Manor House. There may be overflow parking in Berkeley Close.
- No more than one or two properties should be built on not more than half of the site, leaving The Manor House attached to the larger part of the site
- Impact on the architectural features of the Manor House by buildings not being in keeping with it. The house is one of the oldest in the village with appropriately sized grounds; it ought to be a listed building which would automatically protect it from such building proposals
- The site is within Dunkirk, not the built-up area of Boughton as claimed by the applicant, an area characterised by green space around buildings
- Loss of privacy and views, loss of light, overshadowing and overlooking of the new houses from existing properties due to differences in ground levels
- Loss of village character with designs that do not fit in with the area
- There have already been recent local housing developments and this will over-develop the area. The application should take account of the cumulative impact with other approved and proposed developments locally
- The site is an orchard and this unsuitable plan will lead to destruction of trees, hedgerows and important habitat – contrary to Local Plan policy E10 There are bats living in The Manor House which should be left undisturbed as should their flight paths.
- Apparent inconsistencies in the plans which question its validity. Even the applicants describe the development as “large”.
- No objection to The Manor House being restored
- Planning Committee Members should take a tour of the area before reaching any decision; or they could study Google Earth to see the layout of the area

### **Relevant Planning Policies**

The NPPF was released in March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

The 12 month period noted above has expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below (bar H4) are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

The development plan currently comprises of the adopted Swale Borough Local Plan 2008.



The key policies within the local plan that will be of material consideration should an application come forward for this site will be:

- Policy SH1 - Settlement hierarchy. This identifies the local service centre of Boughton as appropriate for development on previously developed land within the defined built up area boundary. At Dunkirk, a minor settlement it is suggested that only infilling within built up area should be permitted. It should be noted that whilst this site is within Dunkirk Parish, it actually sits in the built-up area that straddles the Boughton and Dunkirk Parish boundary, not in the rather more remote Dunkirk settlement at the top of Dunkirk Hill. It is therefore well located for the services and facilities in Boughton and should in my view be seen as at a local service centre for the purposes of policy SH1. To this extent I consider that the Parish Council's quote from the Council's own Rural Sustainability Study (see above) is inappropriate and misleading.
- Policy E1 - General Development Criteria. This sets out general standards all development will be expected to meet.
- Policy E10 – Trees and Hedges. This policy aims to protect trees on development sites including old orchards, that make an important contribution to the amenity, history, landscape or nature conservation value of the site or surrounding area; with retention of trees as far as possible and new planting to maintain and enhance local character.
- Policy E11 – Protecting and enhancing the Borough's Biodiversity and Geological Interests. Ensuring evaluation of ecological interests, accommodation and management of such interests and avoidance of adverse impacts.
- Policy E19 - Achieving High Quality Design and Distinctiveness. Seeking to reinforce local distinctiveness and promotion of attractive places.
- Policy H2 - Providing for new housing. This provides for new housing on allocated sites and other land within built up area boundaries.
- Policy RC7 – Rural Lanes. The protection from harmful physical development or traffic that would significantly harm the character, especially of designated rural lanes. Members should note that the traffic to this site would not use any designated rural lanes if approaching from Boughton.
- Policy T1- Providing safe access for new development. Preventing development that would lead to a decrease in safety on the highway network.
- Policy T3- Vehicle parking for new development. Ensuring adequate parking provision on new developments.

The site falls within the Hernhill and Boughton Fruit Belt according to the Swale Landscape Character and Biodiversity Appraisal 2011, and area described as a network of shelterbelts, orchards, hop gardens and traditional buildings with an historic field pattern having high sensitivity and being in good condition

Of particular importance to this proposal are the following paragraphs from the NPPF:

Paragraph 17 focuses on the core land-use planning principles some of which are relative to this application, including that the planning system should:

- *proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places*

*that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;*

- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;*
- and*
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;*

Paragraph 53 states that *“Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area”*.

In terms of non-designated heritage assets the NPPF (at paragraph 135 states that: *“The effect of an application on the significance of a non – designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly no designated heritage assets, a balanced judgement will be required having regard to the scale of harm or loss and the significance of the heritage asset”*).

## **Discussion**

In this case, I consider the key issues in determining any application for housing on the site would be:

- Principle of development and design
- Local ground conditions
- Impact on Manor House - a non-designated heritage asset
- Ecology and nature conservation
- Highway considerations

### **Principle of development and design**

Dunkirk is identified by policy SH1 as a settlement where development will be limited to infill or redevelopment within the built up area. This though to my mind clearly applies to the isolated part of Dunkirk close to the former school. This lower part of Dunkirk is contiguous with the far more built up “local service centre” of Boughton, where policy SH1 accepts new development on previously-developed land within the defined built-up area. Policy H2 suggests that permission for new residential development will be granted for sites allocated in the Plan, and for sites within the built-up area. Although private residential gardens are not classified as previously developed land within the NPPF, this site lies within the continuous built-up area of Boughton and Dunkirk and in my opinion the principle of efficient development of the site is acceptable in this location subject to successful site layout, impact on the neighbouring properties, design and highway considerations.

The site's surroundings are in the main modern estate style development. The area is not characterised by any special architectural style or distinctive appearance. To that extent the proposals should not in my view seek to emulate their surroundings, but to enhance them. The design approach adopted is that of traditional local materials with a variety of individual unit. Roof heights have been reduced to keep them low, which is essential if the new units are not to look out of scale with The Manor House.

Any proposed development will need to ensure that a minimum distance of 21 metres is kept between rear windows to avoid unacceptable impact on the neighbouring amenity. This scheme respects this standard. The Parish Council refers to dwellings being less than 11m apart, but the 11m distance relates to distances from main windows to flank walls, not between flank walls, and in this respect the proposals meet the normal standards.

I consider that the layout should take access from Berkeley Close so that the Staplestreet Road frontage can be entirely hedged and can avoid the need to retain the unsatisfactory access point there. The internal site layout now responds well to the primacy of The Manor House, leaving it in full view from the old A2 to the south to be appreciated as a charismatic building in the locality. The new houses have been designed not to dominate the scale of The Manor House and I believe it will stand out on the site, albeit with less spacious grounds.

The longer route for day-to day traffic that the site layout will mean more uniformity in traffic patterns and, contrary to local comments, that part of Dawes Road that will be involved is not a designated rural lane, so I do not consider that policy RC7 is breached by the proposed arrangement.

#### Local ground conditions

It is well known that the lower Dunkirk area suffers from subsidence, ground movement and significant surface water run-off from the woods to the east of the site. I can understand local sensitivity and fears that any new development may worsen the existing problems. The applicants have taken time to understand these issues, and are aware of the well on the site which they propose to restore. The piled foundation design that has been suggested should avoid surcharging the ground or affecting drainage patterns, and drainage tests have established solutions to this issue.

I believe that these technical matters are capable of resolution and that other than requiring them to be carefully considered by conditions I do not believe that they should affect the decision to grant planning permission here.

#### Impact on Manor House

Manor House is in my view a non-designated heritage asset (as defined in the glossary to the NPPF). It is a well preserved brick and tile-built early C19th cottage with integral store and loft. Its unusual and well preserved architectural form and details adds to its history and significance.

Paragraph 128 of the NPPF which requires an applicant to assess the significance of the heritage asset and its setting using appropriate expertise. The applicant has

done this. In the case of an application that may affect a non-designated heritage asset paragraph 135 of the NPPF states that it is for the Council to make a balanced judgement having regard to the scale of harm or loss and the significance of the heritage asset. In this case there is no loss of the asset, but the unusually generous setting of The Manor House will be eroded. In my view this can be accepted as the gains in terms of choice and provision of new housing in the village is welcome and in accordance with the sustainable development aims of the Development Plan and the NPPF.

This may not be a previously developed site in the strict sense of the word, but it is a site within an established residential area where the scale of development is small and the consequences for the area will be limited. As such I consider that the benefits of the development as set out outweigh any harm to the current setting of The Manor House.

#### Ecology and nature conservation

In this case it is known that the roof space of The Manor House plays host to bats. The proposals for the site do not entail alterations to the roof space so there is no reason to suppose that the roosts need to be affected. Bats appear to fly over the site and it is important that they retain access to nearby hedges and other feeding areas. The development is not high density and the boundary hedges are to be retained. Provided that intense lighting of such areas is avoided, I see no reason to suppose that bats will not continue to use the roosts and fly around and between buildings as they do now. I have recommended a condition to require a mitigation strategy and this may include the addition of further bat boxes if this is felt necessary.

The site is host to a number of small trees and has the appearance of an old orchard. However, none of the trees are individually of merit and those close to the southern boundary can be retained. I have recommended a safeguarding condition. I do not consider that the development is contrary to policies E10 or E11 of the Local Plan, but that new hedgerow planting can add to the ecological value of the site.

#### Highway considerations

I have consulted the Kent Highway Services on this proposal but am still awaiting their response. I am of the opinion that the permanent access to the site should be off Berkeley Close which would have less of a highway impact. However, I do accept that the local roads leading to the site are far from ideal for construction traffic, and I have discussed with the applicant the option of taking as much heavy traffic off the roads as soon as possible by using the existing access point prior to it being closed up and hedged across in the long term. This should significantly reduce such issues. I have recommended a condition to require such details to be drafted and approved by the Council.

Parking provision should be 2 spaces per unit and the scheme also needs to provide visitor parking spaces at a rate of 0.2 spaces per unit. Garages are not considered as part of this provision, but the proposed car ports are. This scheme more than meets these standards.

## **Recommendation**

I recognise that this application has drawn a significant amount of opposition. However, the site is within the built-up area boundary and subject to appropriate planning conditions, I see no technical objections to the grant of planning permission. The Manor House is certainly an attractive and important part of the local scene, but it is to be retained and restored. The scale, height, designs, materials and positions of the proposed houses pay due regard to the significance of The Manor House and I consider that this scheme is worthy of being recommended to be granted planning permission.

## **List of Background Documents**

1. Application papers and correspondence for application SW/14/0397
2. Application papers and correspondence for application SW/13/1258 and SW/12/1520

- Location :** Holm Park, St Peters Close, Halfway, Sheerness, Kent, ME12 3DD
- Proposal :** Variation of condition 2 of planning permission SW/10/0882 to allow the use of the floodlights until 10pm for 52 times a year on either a Tuesday or Thursday
- Applicant/Agent :** Mr E Batten, C/o Mr Gregory Bunce, Primefolio Ltd  
24 Ashford Road, Maidstone, Kent, ME14 5BH
- Application Valid :** 09 April 2014
- 8 Week Target :** 04 June 2014

**Subject to: The comments of Kent Highway Services and The Head of Service Delivery and any additional conditions recommended by them.**

**Conditions / Grounds**

1. The floodlighting hereby permitted shall only be used between 0800 and 2100 hours on Mondays to Fridays, with the exception of either one Tuesday or Thursday in any one week when the hours of use may be extended to 2200 hours, 0800 and 2000 hours on Saturdays and 0800 to 1800 hours on Sundays and Bank Holidays, and shall be switched off outside these times.

Grounds: In order to protect the amenities of the locality and local residents.

2. The floodlighting hereby permitted shall be installed, set up and maintained as detailed in the application and before it is first brought into use it shall be checked by an independent lighting engineer, and should it be deemed necessary the applicant shall adjust the set up of the floodlighting and/or amend the set up, with no deviation from these details without the prior written approval of the Local Planning Authority.

Grounds: In order to protect the amenities of the locality and local residents.

3. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Grounds: In the interests of the visual amenities of the area.

4. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area.

### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was acceptable as submitted.

### **Description of Proposal**

This application seeks to vary condition 2 of planning permission SW/10/0882 which granted planning permission for the erection of 6 x 15 metre high floodlights. The condition to be varied is worded as follows:

*"2. The floodlighting hereby permitted shall only be used between 0800 and 2100 hours on Mondays to Fridays, 0800 and 2000 hours on Saturdays and 0800 to 1800 hours of Sundays and Bank Holidays, and shall be switched off outside these time.*

*Grounds: In order to protect the amenities of the locality and local residents."*

The applicant seeks to alter this time restriction so that the floodlights can be operated until 10pm on either a Tuesday or Thursday in any one week. This will allow the football club to hold matches at the site during the winter months. The applicant notes the following:

*'We have applied for over £100K worth of funding from the football foundation for the works at Holm Park, our application will be defunct if the extension application is not successful'.*

*'The panel will want to ensure that the floodlight restriction does not impinge on the clubs ability to fulfil its fixtures now and in the future. This could be a risk to the panel*

*deciding to award a grant or if they do a condition could be added that states that no grant would be released until a variation to the condition has been obtained.'*

### **Relevant Site History and Description**

The application site lies on the northern edge of Halfway and is accessed via a track leading from Queenborough Road. The grounds are used for football practice and matches. The football pitch around which the floodlights would be sited is 70 metres from the western boundary and 65 metres from the southern boundary. Residential properties lie to the south of the site fronting Queenborough Road (65 metres away) and to the west in Sunnyfields Drive and Fairview Close (70 metres away). The land to the north is open agricultural land. The site lies outside of the built-up area boundary and within floodzone 2.

Planning permission for the clubhouse and changing rooms was granted under SW/92/0844. This followed a refused proposal for new dressing rooms and stands and lighting around the pitch under SW/90/1013. The reasons for refusal focused on the impact of increased traffic movements on the access onto Queenborough Road and an unacceptable level of activity that would be detrimental to residential amenities.

Planning permission was approved for 8 no. 12 metre high floodlights at the site under SW/06/0021. This permission was never implemented. Planning permission was then approved under SW/10/0882 for the erection of 6 no. 15 metre high floodlights. Condition two of this permission is the subject of this current application.

It is prudent to note here that the floodlights to which the 2010 permission relates have not yet been installed. However, the applicant has successfully argued that a sufficient amount of work in preparation for the erection of the floodlights has taken place to amount to the commencement of development. These works are the digging of trenches and the laying of electrical cables to the points where the floodlights are to be sited. This work took place in June 2013 and so it commenced within the 3 year time limit as set out under the 2010 permission (which would have expired on 17<sup>th</sup> September 2013).

### **Views of Consultees**

Comments from Kent Highway Services and the Head of Service Delivery are awaited and will be reported to Members at the meeting.

### **Other Representations**

Four representations have been received from local residents objecting to the proposal. A summary of their comments is as follows:

- The floodlights have not been constructed;
- Existing disturbance;
- The inevitable consequence of the lights being on is the unacceptable level of noise from players and spectators;



- The extension is planned for week nights (work nights/school nights) when the impact would be greater;
- There is a rebound effect of noise from the site bouncing over to the properties opposite Sunnyfield Drive;
- There are likely to be further applications for the club's expansion in the future;
- Residents of the local area are not given consideration when social events are held and there is no attempt by management to curb foul language;
- Do not need any more noise or light pollution in the area;
- The approved landscaping has not been carried out;
- Likely to lead to increased traffic along the private road – will Holm Park invest in repairing and maintaining the road?
- An increase in litter when the site is used.

## **Policies**

### **Swale Borough Local Plan 2008:**

E1 – general development  
 E6 – countryside  
 E7 – Separation of settlements  
 T3 – vehicle parking  
 E9 – Landscape

## **Discussion**

I consider the key issue to be the impact of the development on residential amenities and any highway implications.

The proposal before Members is for the use of the floodlights for one additional hour, one night a week. Members should therefore consider the consequences of this particular request as opposed to revisiting the impact of the floodlights within the current permitted times. The permission for the floodlights has already been granted and the impacts of the floodlights considered to be acceptable at the time. It is also the case that any concerns about activity at the club increasing as a result of this proposal should be confined to the additional one hour per week only. Members considered the increase in activity associated with evening matches/increased use of the site under the 2006 and 2010 applications. Again, no significant harm was identified. Highway considerations should also be confined to the additional hour requested.

I note the concerns of the local residents but observe that they are mainly concentrated on the principle of the erection of the floodlights and the associated increased activity. As set out above, the permission for the floodlights has already been granted with their use allowed until 2100 on weeknights. This permission has been implemented insofar as the development commenced within the three year time limit.

When considering whether this proposal would cause significant harm, I conclude that it would not. Local residents will experience the floodlights, with any associated

activity, until 10pm, as opposed to 9pm on one night a week. I consider that this would have no significant additional impact on their amenities.

I am yet to receive the comments of the Head of Service Delivery and will report these at the meeting. However, I am content that this proposal would have no significant harm to local residents.

The impact on highway safety and amenity for this additional hour, one evening a week would be insignificant in my view. I will though report the comments of Kent Highway Services at the meeting.

### **Recommendation**

Having considered the relevant planning policies and comments from local residents, I am of the view that the proposal would cause no significant harm to the amenities of local residents given the fact that the additional impact would be confined to one hour per week. I also consider that for the same reason, the impact on highway safety/amenity would be insignificant.

I therefore consider that this application should be approved subject to the comments of Kent Highway Services and The Head of Service Delivery and any additional conditions recommended by them.

### **List of Backgrounds Documents**

1. Application papers and correspondence for SW/06/0021
2. Application papers and correspondence for SW/10/0882
3. Application papers and correspondence for SW/14/0457

**Location :** 32 East Street, Faversham, Kent, ME13 8AS

**Proposal :** Installation of new front windows

**Applicant/Agent :** Mr J Purcell, C/o Mr A Purcell, AN Purcell  
23 Holly Road, Wainscott, Rochester,  
Kent, ME2 4LG

**Application Valid :** 09 April 2014

**8 Week Target :** 04 June 2014

### **Conditions**

#### **Conditions/Grounds**

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) Notwithstanding the drawings submitted, before the development hereby permitted is commenced, detailed drawings of the proposed windows at a scale of 1:20 showing dimensions of all components, and showing how the windows are to be set into the existing wall, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved details.

Grounds: In the interests of preserving and enhancing the character and appearance of the conservation area.

#### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was approved having first been reported to the Council's Planning Committee.

## **Description of Proposal**

This application seeks planning permission to replace the current unattractive metal framed windows at ground and first floor on the front elevation at 32 East Street, Faversham with new upvc windows.

The present windows are of a very poor quality of design, with horizontal proportions in widened openings and with top-hung openings they are in my view harmful to the character and appearance of this Victorian mid-terrace house. The proposed windows would be of upvc construction, finished in white, and would replace the existing wide window with two light casements of more traditional vertical proportions and with the inclusion of a horizontal bar to give the outward appearance of there being four panes.

## **Relevant Site History**

The property is a late C19th mid-terrace house, situated within the Faversham Conservation Area and subject to an Article 4 (2) Direction, hence the need for planning permission. This application is a revised proposal following a withdrawal of an application under SW/14/0125 to allow for a more appropriate design to be considered following advice from the council.

## **Views of Consultees**

Faversham Town Council recommends refusal of the proposal, as the proposed design and materials are inappropriate.

## **Other Representations**

The Faversham Society also recommends refusal saying “the use of UPVC is not appropriate for the age and character of the building and would harm the character and appearance of the conservation area”.

## **Development Plan Policies**

The following Development Plan Policies are relevant:

### **Swale Borough Local Plan 2008**

Policy E1 (General Development Criteria)

Policy E15 (Conservation Areas)

Policy E19 (Design Criteria)

Policy E24 (Extensions & Alterations)

## **Discussion**

The main issue to consider in this application is the effect of the proposed replacement windows on the character of both the building and the conservation area.

The most desirable and appropriate window design here would be a sash window. Unfortunately a conventional sash window design would not fit within the existing openings as the original openings were widened sometime in the property's history. It would be possible to have a sash style window design in these wider openings but the proportions would look awkward within the context of the building and neighbouring properties. After consultation with the applicant I am of the opinion that the current window design is a much better detail than the previously withdrawn application. It is also much more in keeping with the character and setting of the building, and the conservation area, even though they will be finished in upvc.

I note the comments of both the Town Council and the Faversham Society. Much as I also would prefer to see a proposal for timber windows, the proposed upvc windows are of a design which is vastly better than the existing window. Policy E15 of the Swale Borough Local Plan requires proposals within the conservation area to either 'preserve or enhance' the character and appearance of the conservation area. I believe that this change will enhance the character of the conservation area.

### **Recommendation**

As such, I believe the proposal to be worthy of support, and I therefore recommend that permission should be granted, subject to the conditions noted above.

### **List of Background papers**

1. Application papers and correspondence for SW/14/0455.
2. Application papers and correspondence for SW/14/0125.

- Location :** Kingshill Farm, Elmley, Sheerness, Kent, ME12 3RW
- Proposal :** Change of use from agriculture to mixed use agriculture and tourism + placement of 3 mobile shepherds huts and for tourist accommodation as part of farm diversification project.
- Applicant/Agent :** Mr Gareth Fulton, ECT (Conservation) Ltd,  
Kingshill Farm, Elmley, Kent, ME12 3RW
- Application Valid :** 19 February 2014 and as amended by plans received on 22 April 2014
- 8 Week Target :** 16 April 2014

**Subject to: the submission of a Unilateral Undertaking relating to the operation of the use**

**Conditions**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall take place until the existing mobile home abutting the eastern boundary of the yard has been removed from the site.

Grounds: In the interests of the visual amenities of the area and the character and appearance of the countryside.

3. No external lighting shall be provided.

Grounds: In the interests of the visual amenities of the area and the character and appearance of the countryside, and in order to minimise the impact of the development on the ecological interest of the area

4. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include existing features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Grounds: In the interests of the visual amenities of the area.

5. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Grounds: In the interests of the visual amenities of the area

6. Upon completion of the approved landscaping scheme, any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area

7. The huts hereby approved shall be used solely for the purpose of holiday accommodation and shall not be let or occupied by any person or group of persons for a continuous period of more than four weeks in any calendar year.

Grounds: In order to prevent the permanent residential use of the huts, having regard to the countryside location of the site.

8. The huts hereby permitted shall not be used for human habitation between the 1st December in any year and the 31st March in the following year.

Grounds: In the interests minimising the impact of the development on the ecological interest of the area./

### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was amended to address the concerns of Natural England, and is now acceptable.

## **Description of Proposal**

This application seeks planning permission for the stationing of 3 “shepherds huts” for use as holiday accommodation on land at Kingshill Farm, Elmley.

The proposed huts actually amount to small caravans, each measuring 3.6 metres long, 2.1 metres wide, 3.1 metres in height. Each caravan would contain very basic facilities – a wood burning stove and a bed. None would be connected to mains services and they could therefore be easily moved.

The huts would be located around the perimeter of the cluster of buildings at the farm. An existing mobile home would be removed as part of this scheme.

The application originally sought permission for two huts and a floating pod, which would have been sited on a pond to the south east of the farm. This was deleted and replaced by an additional hut to address the objection of Natural England.

The application is accompanied by a Heritage Statement and substantial information in relation to ecology, including mitigation measures as follows:

- No external lighting;
- Managing guest movement within the site, particularly after dark;
- Internal lighting to be low level;
- Low level hand torches to be provided to guests;
- Screening to be provided in the immediate vicinity of the huts;
- Blinds to be fitted to the windows of the huts;
- Briefings to be provided to guests on arrival relating to acceptable behaviour in and around the site;
- Huts not to be used between 1 December to 31<sup>st</sup> March
- Single pedestrian route to and from huts to be demarked;

In addition to this, guests would be required to sign up to a code of conduct, as follows:

- *No dogs are permitted on site*
- *Access to huts is only permitted by the marked routes*
- *Visitors must remain on marked footpaths and nature trails, and must not access other areas, stray off these routes or cross closed gateways.*
- *Visitors must remain in the marked area around huts and on the path and must not proceed further towards the water bodies.*
- *Any activity near the water bodies is strictly forbidden, this includes music, lights, BBQ and other general presence (loafing)*
- *Only those facilities provided may be use. Specifically guests may not provide or make their own BBQs, fires, table and chairs, picnic areas or play games outside of the permitted area.*
- *Only the lighting and torches provided may be used at the site – no high powered torches or camping lights are permitted.*
- *No audio players are permitted outside of the huts.*



Wardening would be carried out to ensure compliance with code of conduct, as follows:

- *There will be a member of staff on site at all times when visitors are staying.*
- *A rota will be established between the 5 members of staff who live and work on site in order to ensure that wardening is carried out effectively at all times of the day and night.*
- *There is currently a wardening rota plan for day visitors, with established procedures. This will be extended to cover overnight guests:*
  - *Bi-hourly checks from dawn*
  - *Once after dark*

#### *Warden procedures*

- *If a contravention of the code is noted e.g. excessive light and/or noise is apparent. An escalating series of measures will be taken:*
- *Monitor*
- *Request that guests change behaviour with courteous reminder of terms and conditions and reasons behind it*
- *If behaviour has not changed or has restarted, then request again with warning that continuance will result in loss of deposit*
- *If the issue continues, deposit will be retained and the issue will be resolved by the warden e.g. turn off lighting or music device.*
- *In extremis, guests will be asked to leave*

### **Site Description and Planning History**

Kingshill Farm is in an isolated location on Elmley Marshes, outside the built up area of Minster, close to the Swale to the east of the Sheppey Crossing. The site of the huts lies close to, but outside the SPA, SSSI and Ramsar sites.

The cluster of buildings at the farm include the listed farmhouse, (formerly occupied by the RSPB) two large barns and dwellings for the farm manager and the applicant, together with visitor facilities for the large number of people who visit the area. The site is surrounded by grazing marsh. Industrial development across the Swale at Ridham is visible from the site. A public right of way runs across past the front of the farmhouse, immediately to the west of one of the sites of the proposed huts. A large visitor car park is located beyond the public right of way, away from the site of the proposed huts.

There is no planning history relevant to this application.

### **Views of Consultees**

Natural England raise no objection to the amended proposal, subject to conditions relating to lighting and landscaping, and to the execution of a unilateral undertaking requiring measure to be put in place regarding prevention of dogs being kept, a code of conduct for visitors using the huts/ pod established to minimise the risk of potential

disturbing behaviour, and a wardening protocol to ensure the code of conduct and any other requirements are adhered to on a daily basis including at dusk and dawn.

The Environment Agency raises no objection.

The Biodiversity Officer at KCC raises no objection.

Minster Parish Council raise no objection.

The Council's Economy and Community Services Manager supports the application, noting that "the work supports the creation of a visitor destination which responds to the outstanding landscape."

### **Other Representations Received**

No other representations have been received.

### **Policies**

Relevant policies in the adopted Swale Borough Local Plan are as follows:

E1 – General Development Criteria

E6 – The Countryside

E9 – Protecting the quality and character of the Borough's landscape

E11 - Protecting and enhancing the Borough's Biodiversity and Geological Interests

E14 – Listed buildings

B5 – New tourist attraction and facilities

T3 – Vehicle parking

### **Discussion**

The proposed huts are extremely small in scale, and would not in my view have a detrimental impact on the setting of the listed buildings at the site, or on the wider character of the landscape. They would, sensibly, be located around the existing cluster of buildings at the site, and from a distance would largely be imperceptible in this context.

I have no concerns regarding highway matters, and the location of the huts would be such that no harm to residential amenity would occur.

The key issues to consider here are whether the development is acceptable as a matter of principle, and the impact of the proposals on the biodiversity interests of the area.

#### **Principle of proposed development**

Policy B5 of the Local Plan explicitly supports the creation of self catering tourist accommodation within the Borough. However - policy E6 sets out that development of this nature is not normally acceptable outside the built up area. However – I am mindful that this proposal would result in the removal of a much larger, unsightly

mobile home, and as I set out above, the huts proposed are extremely small in scale. In addition, despite the remote and isolated location of this site, I am mindful that it is visited by substantial numbers of bird watchers and walkers (approximately 11000 people per year). It is unlikely in my opinion that there would be any noticeable increase in activity at the site as the result of this proposal. Finally, the mitigation measures set out in the conditions above, and in the unilateral undertaking, will further reduce any impact the development might have,. As such, in my view the impact on the countryside is unlikely to be significant, and I consider the development to be acceptable as a matter of principle, subject to condition 7 above, which restricts the use to holiday accommodation only.

### Impact on biodiversity

Members will note that, subject to the above conditions and to a unilateral undertaking, Natural England do not object, and neither does the Biodiversity Officer at Kent County Council. The Borough Council is required to address the requirements of the Habitats Directive and, in accordance with the advice of Natural England and the Biodiversity Officer, I conclude that the development as now proposed would not be likely to have a significant effect on any European site, either alone or in combination with any other plan or project, having taken into account the mitigation and avoidance measures in the details submitted with the application. These would be secured in part by the conditions above, and where it is not possible to secure them by condition, by the unilateral undertaking.

Specifically, the unilateral undertaking would secure the code of conduct to be maintained, publicised to guests, and enforced by the wardening protocol set out above.

### Recommendation

In my view, the scale of development proposed here is such that it would not have a significant impact on the character of the countryside, and subject to the conditions above and to the submission of an appropriately worded unilateral undertaking, on the ecological interest of the area.

As such, I seek delegation to approve the application, subject to the submission of an appropriately worded unilateral undertaking, as set out above.

### **List of Background Documents**

1. Application papers and correspondence for SW/14/0383

- Location :** Fowler Welch Coolchain, London Road, Tonge, Sittingbourne, Kent, ME9 9PR
- Proposal :** Extension to warehouse, decommissioning and alteration to loading bays 1 & 2; extension to service yard with additional tractor unit & trailer parking; extension to HVG tractor unit parking area; landscaped curtilage to Claxfield House; amendments to car, cycle, motorcycle & disabled parking; peripheral landscaped acoustic bund & comprehensive landscaping and biodiversity enhancement
- Applicant/Agent :** Fowler Welch Coolchain, C/o Mr Paul Sharpe, Paul Sharpe Associates LLP, The Old Rectory, Burytown Lane, Broad Blunsdon, Swindon, Wilts, SN26 7DQ
- Application Valid :** 31 December 2013 and as amended by letter and drawings received 12 May 2014
- 8 Week Target :** 07 February 2014
- 13 week Target:** 01 April 2014

**SUBJECT TO:** Further views of consultees and other representations (closing date 29 May 2014)

**Conditions**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

**Grounds:** In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

**Pre-commencement conditions**

2. The development hereby permitted shall be carried out in accordance with the following drawings: A1044-01, A1044-04, A1044-05, A1044-11 Rev B, A1044-31 Rev B, A1044-32 Rev B, A1056-10, 17193/01 Rev P0, 17193/02 Rev P0, 17193/03 Rev P1, 17193/04 Rev P1, 17193/07 Rev P1, 17193/08 Rev P1, 17193/10 Rev P0, 17193/11 Rev P1, 17193/12 Rev P1, 17193/13 Rev P1, 17193/14 Rev P0, 2687\_DR\_002 Rev D and 2687\_DR\_003 Rev C.

Grounds: For the avoidance of doubt.

3. No development shall take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved by the Local Planning Authority. The measures shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Grounds: In the interests of residential amenity.

**During construction**

4. Details of the siting, specification and noise levels of all new fixed refrigeration, air conditioning and ventilation plant together with measures to ensure that noise from that plant does not exceed existing noise levels at the site boundaries shall be submitted to and approved by the Local Planning Authority prior to the installation of any such plant. Upon approval all such plant shall be installed and maintained in accordance with the approved details and specification.

Grounds: In the interests of the amenities of the area

5. Prior to the fitting of any external cladding, details of colouring of external facing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Grounds: In the interest of visual amenity.

6. Adequate precautions shall be taken during the period of demolition and construction to prevent the deposit of mud and/or other debris on the public highway.

Grounds: In the interests of highway safety and convenience

7. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-  
Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity

8. No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:-  
Monday to Friday 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity

9. The landscaping works described in the report entitled “2687 Expansion of Fowler Welch Coolchain Depot“ Ref “2687\_SP\_001-Softworks Specification” dated 11 December 2013 and shown on drawings 2687\_DR\_002 rev. D and 2687\_DR\_003 rev. C, including removal of existing leylandii style trees shall be completed within 12 months of the commencement of construction works unless an alternative implementation programme has first been approved in writing by the Local Planning Authority.

Grounds: In the interests of the visual amenities of the area.

10. The extension hereby approved shall be constructed to BREEAM ‘Very Good’ Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved unless otherwise agreed in writing by the Local Planning Authority.

Grounds: In accordance with the terms of the application and in the interest of promoting energy efficiency and sustainable development.

11. The extension hereby approved shall not be occupied until the 2 “Canterbury” cycle shelters for 36 cycles shown on drawing 17193/14 Rev P0 and illustrated in the details of “Cyclepods” submitted with the application have been installed.

Grounds: In the interests of ensuring that proper provision is made for cycle parking.

12. The extension hereby approved shall not be occupied until the pavement to the east of the site entrance has been widened and the boundary fence adjoining Claxfield House has been removed and replaced with a fence of not more than 1.8m tall and in the position shown on drawing 17913/03 Rev P1.

Grounds: In accordance with the terms of the application and in the interests of the amenities of the area.

### **Post construction**

13. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the use of the extension hereby permitted shall be restricted to the grading, storage, packing and distribution of agricultural produce.

Grounds: In accordance with the terms of the application, in recognition of the reasons behind approval of the development in this rural location, and in interests of the amenities of the area.

14. Chiller units on parked trailers shall not be run other than by mains electricity between the hours of 2200 and 0700 the following day

Grounds: In the interests of the amenities of the area.

15. The number of operational loading docks on the combined extended building shall not exceed 21 loading docks at any time.

Grounds: In accordance with the terms of the application and in the interests of the restricting the amount of HGV traffic that might be generated from the site.

16. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area.

17. No floodlighting, security lighting or other external lighting shall be installed or operated on the extension hereby permitted, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted luminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

Grounds: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings.

### **Council's approach to this application**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the Council weighed up the competing interests of economic development and the need to ensure the competitiveness of local agricultural produce against the harm arising from the proposal to develop in this rural location and its implications for the amenities of the area and the plan led system advocated

by the NPPF, and the amendments made to the application, and concluded that the right decision was to grant planning permission.

## **Introduction**

Members will recall that this application was first reported to the 10 April 2014 meeting but that following publication of the recommendation I agreed with the applicants that I saw no objection to Members' consideration of the application being deferred to allow the applicants time to consider whether they might wish to amend the application. Members agreed with my view and consideration of the application was deferred. At the 10 April meeting all public speakers agreed to defer their address to Members to the 5 June meeting and this item is being presented as a fresh report, not specifically as a deferred item.

Since 10 April I have met with the applicants to clarify my concerns and to discuss what changes, if any, the applicants might wish to make to the application ahead of the 5 June meeting. The applicants have now considered my concerns and written to address them with amended drawings, a revised draft Unilateral Undertaking, and a report on recent archaeological investigation of the site.

I have reconsulted all normal consultees and any additional objectors/ supporters on the amendments, and have asked them to respond to me with any comments by 29 May. I may therefore need to update Members on these responses at the meeting

This report addresses the application in its amended form, albeit the representations as set out below are in relation to the application as originally received and do not take into account the recent amendments.

## **Description of Proposal**

This is a Major application for a substantial westwards expansion of the applicants' distribution depot to enable it to handle imported fruit alongside local produce. It is supported by a great weight of documentation including drawings, a Design and Access Statement, a Planning Statement, a Transport Statement, an Air Quality Assessment, a Landscape and Visual Impact Assessment, a Noise Impact Assessment, a Lighting Proposals Report, Cultural and Heritage Assessments and a Draft Unilateral Undertaking. Also included is a letter dated 15 November 2013 from The Environment Agency that raises no objection to an expansion of the depot subject to safeguarding of groundwater quality. There is also now a letter setting out the reasons behind the proposals in more detail, a revised draft Unilateral Undertaking, amended drawings and a report on recent archaeological investigation of the site

From these documents I have drawn the following points;

Although the current depot was built as a packing and distribution depot for local produce, the packing function has since been taken over by local on-farm facilities so the depot is now focussed on consolidation of loads and distribution of that produce to major supermarket distribution centres. This proposal will bring back some packing (of foreign produce) in the original packing area; the new extension simply being new cold storage space.

The applicants are one of the largest conveyors of local produce to the national retail sector and deliver produce from 50 to 60 growers/packers in Kent to all 5 major supermarket groups. They are an essential component of the supply chain and it is essential to the success of the produce industry in Swale and in



Kent that the applicants are through this expansion able to enhance their offering to supermarket customers.

The intention is that the site will process local produce as well as imported produce, and the applicants will continue to collect, consolidate and deliver local produce from local growers and packers, improving the productivity and competitiveness of the local produce industry. The applicants have responded to my enquiries about handling foreign produce at Kemsley Fields (G Park) saying that the foreign produce cannot be processed separately whilst achieving maximum efficiency savings; and that mixed loads would reduce food miles.

The consolidation of foreign produce along with local produce will create relatively few additional traffic movements but will provide significant economies for the supermarkets, for the applicants and for local growers/packers. The applicants claim that there would in fact only be an additional 10-15 delivery lorries (20-30 movements) over a 24 hour period.

Alternative scenarios of relocating the entire operation were raised with the applicants in pre-application discussions but these are said not to be practical because “the scale of investment by the company at the Teynham depot has long exceeded the point where relocation and redevelopment of the site (say for housing) would in any way be viable”.

The overall site area is 7.28ha and contains Claxfield House, a grade II listed building with HGV parking behind it. The setting of the listed building on site would be improved through the new garden created behind it. The settings other nearby listed buildings will be enhanced in the longer term through new planting. The applicants have now suggested that the rather new palisade fence parallel to the A2 next to the listed building on the site will be set back further into the site and reduced in height to 1.8m, allowing more landscaping on the site frontage.

There are currently 231 full time employees on site, and this is expected to rise by 60 to 291 – comprising an additional 10 office staff and 50 warehouse staff.

The existing depot has a gross internal floorspace of 7,253sq m. The proposed floorspace is 4,858sq, bringing the proposed total to 12,111sq m; a 67% increase in warehouse space but with less overall floorspace than existed before the old Woods building was demolished.

This is a £9 million investment by the company.

Traffic from the site over a 24 hour period currently stands at 228 light vehicles and 353 HGVs compared to around 16,000 light vehicles and 1,000 HGVs using the A2 itself past the site – meaning that the site generates 2.5% of traffic on the A2 west of the site (1.1% to the east) over a 24 hour period. However, within this overall figure the site is responsible for 22.9% (almost a quarter) of HGVs on the A2 west of the site and 9.1% (almost one tenth) on the A2 to the east, although these movements are not concentrated in peak travel hours.

The current depot has 17 lorry loading docks and a lorry parking area at the rear, as well as the lorry park to the east of the building. Two existing loading docks are to be decommissioned and 6 new loading docks created, resulting in a net increase in four loading docks, or 24%, which is said to limit the potential increase in total HGV movements to the same figure. The applicants are prepared to accept a condition limiting the number of loading docks to this number. HGV movements could not therefore increase by more than 86 per 24

hour period, 50 (or 58%) to the west and 36 (or 42%) to the east, with 55 more cars likely in the same period, meaning that;

*“The proposed development will result in an increase of “well under 1% in total traffic flows on the A2 in both the network peak hours and over a 24 hour day.”*

This is said to have “an insignificant” effect on the operation of the local road network, although it involves a 6% increase in HGVs on the A2 west of the site. The applicants acknowledge the air quality management areas in Ospringe and Sittingbourne through at least one of which all HGV traffic would have to pass. However, their analysis is that the likely impact on air quality will be minor adverse, but the increase in pollutants will be negligible so not requiring any mitigation measures.

Current parking provision is for 139 cars, 10 motorcycles and 20 cycles. It is proposed that this be increased to 143 spaces for cars (nine extra) plus 8 disabled spaces, and 36 cycle spaces (16 extra). HGV parking provision at the rear of the depot would be approximately doubled (although no figures are given) as it will be extended for the full length of the proposed extension, with 14 new electrical plug-in points for lorries to add to the 10 at present.

No alterations to the site access are proposed, although the pavement towards Teynham will be widened.

The current depot building measures 103m long x 76 m deep, whilst the new build extension would measure 79.5m long x 63m deep.

The original application suggested that the new building provided a clear internal headroom of 11m – the same as the overall height of the current depot building. It would therefore have been 2.9m taller than the current depot. The amended drawings show a reduction in height, with the extension now merely a continuation of the existing building height, but without enlarging the footprint of the extension to compensate for this loss of storage volume.

The revised design would feature a shallow (6 degree) double ridged hipped roof form continuing the profile of the current depot, but with exposed structural bracing to distinguish the new build from the old and reduce the otherwise monolithic effect of the two phases of the building. Cladding would be in a different colour to the blue of the existing depot, and it is suggested that the precise colour chosen is yet to be agreed with the Council.

Although earth bunding is not characteristic of this undulating landscape significant 3.5m to 4m high earth bunding and native landscaping is proposed to the site boundaries to reduce the impact of the building in the landscape, and add to biodiversity potential. These bunds originally enclosed not only the existing depot, extension and lagoon (see below) but also a large open “meadow” area to the rear of the depot, essentially following the applicants’ ownership boundary. However, it is now proposed to locate the lagoon largely on an existing lorry parking area, and to draw in the bunding more closely to minimise the impact of the works on agricultural land take.

It is still proposed to remove the existing poplar tree screen along the A2 on part of the site’s northern boundary as some are in poor condition, some are dead, and because new planting will screen the new building better. It is also proposed to remove some incongruous but prominent leylandii type trees which are visible from the site entrance. The western site boundary will now feature a locally characteristic linear alder tree screen together with a planted bund.

The development would result in a “notable” visual change to the area, but new landscaping will help to screen the existing depot, especially as it now proposed to extend the bunding on the exposed eastern boundary. The site has no special ecological constraints and no further survey work for protected species is recommended.

Noise and light pollution will not be increased except as a result of additional traffic to and from the site, but these would be slight. The site is not in a flood risk area and all run-off from impermeable surface will be addressed by an on-site sustainable drainage installation via a new lagoon now sited in the south-eastern corner of the site.

Recent archaeological excavation on the site (March 2014) has revealed that past brick earth extraction activities on the site have “truncated” the archaeology and no archaeological features or artefacts of any antiquity were recovered. Only modern backfill material and litter were discovered.

The draft Unilateral Undertaking suggests that the applicants are prepared to commit to a travel plan to reduce travel by motor vehicle and single occupancy car rates, to ensure that new lorries will meet minimum EU pollution standards when acquired, and to encourage apprenticeships and local labour both at construction and operation phases of the extended depot, with the applicants committing to reasonable endeavours to secure 20% of additional labour locally.

The draft Unilateral Undertaking now also commits the applicants to refurbishment of the exterior of the listed building, including repairs to rainwater goods, render and decoration, and to marketing the building at a discounted rate for at least 18 months for office use. Currently the building is vacant and in need of a good use. This commitment may see it being used effectively and better looked after, although at present it is worded narrowly (just to office use), and in such a way that the commitment is spent if planning permission is required for a new use. I would like to see that amended so that the applicants commit to making any necessary planning application for such new use.

The agent for the application has responded to local representations and I refer to this response at the appropriate points below.

### **Relevant Planning History and Description**

The depot here is said to have started in around 1958 and in 1993 the Council granted planning permission (SW/92/1045) for the new depot that is there today. This provided the new site access with right turn lane and greater lorry parking, to relieve the then problem of lorries actually waiting on the A2 when the original site was full.

In 1996 the company applied for a very substantial 184% floorspace extension to the new depot (taking it up to 20,611sq m) which Members refused against officer recommendation (SW/96/858) on the grounds relating to;

That the site was insufficiently well related to the national highway network, and the likely increase in HGV traffic would result in congestion on the A2, and with increased noise and disturbance it would be detrimental to the character of amenities of settlements along the A2;

Damage to the visual amenities of the rural area, and;

Loss of high quality agricultural land.

This decision was appealed and a public inquiry was subsequently held, resulting in the appeal being allowed in June 1998 with the Inspector noting that there was no adopted Local Plan in place at that time. As such the relevant Development Plan comprised the 1969 Sittingbourne Milton and Vicinity Town Map, the 1996 Kent Structure Plan and the 1983 Kent Countryside Local Plan. The Inspector also referred to Regional Planning Guidance. All of these have now been abandoned or superseded by the Swale Borough Local Plan 2008 and the NPPF.

The main issues the Inspector identified were whether the site was suitable in relation to the highway network; traffic generation; the rural location of the site; loss of agricultural land; and the setting of Claxfield House. He noted that the granting of planning permission had been recommended by officers and found that;

Even then, the Town Map was considered out of date, but the then draft Swale Borough Local Plan had not assumed significant weight. Regional Planning Guidance set the site within the Thames Gateway which was identified for major long term development.

The site access was considered safe and the site sustainably located on a good bus route, and in Teynham with its mainline railway station.

An alternative site may have been difficult to find, with Local Plan allocations of land at north-west Sittingbourne not available owing to infrastructure problems. Land at Eurolink on the eastern edge of Sittingbourne was not at that time thought suited to the appellant's needs as access to the M2 to the west was difficult.

The development would be a valuable resource for the important local agricultural industry in order to get local produce to supermarkets in accordance with then current Structure Plan policy. The appeal proposal benefitted from strong economic stimulation policies of the Structure Plan for the Thames Gateway especially for Sittingbourne and Sheppey.

The site itself is adjacent to the A2 that was defined as a secondary route, which was important as Structure Plan policy sought only to discourage traffic from sites not well related to primary and secondary routes. The Structure Plan still formally included plans for by-passes at Teynham and Ospringe, and weight was given to this despite the fact that the Inspector was made aware that the County Council had already abandoned those proposals.

The Inspector found traffic on the A2 free-flowing with a low accident record and, despite predicting harm to residential amenity from additional traffic, he found that an additional 224 cars and 50 lorries per day would be still be a very small percentage increase in traffic (1.1% for cars and 3.8% for lorries) and would not warrant refusal of permission even on amenity grounds – noting that a doubling of traffic levels would be required to result in any perceptible increase in noise.

In terms of countryside issues the Inspector noted that the site is not in any area of special sensitivity, but rather in a ribbon of development between Bapchild and Teynham, which in his opinion could not be described as open countryside. He did not find that the development would adversely affect the setting of Teynham or its sense of separation from Bapchild.

He also found that the horseshoe shape of the then proposed layout would successfully arrest noise and light pollution, and that demolition of older warehouses (since demolished in 2003 and now part of the lorry park) would render the site less conspicuous from the A2.

On the agricultural land issue the Inspector accepted the high grade of the land but saw the economic development and job creation arguments (137 new jobs) as overriding the loss of the relatively small area of land involved.

With regard to the setting of the listed building Claxfield House, the Inspector found that to create a planted garden to the rear of the house would improve its setting.

The Inspector concluded that the then proposal was generally in accordance with such Development Plan policies that existed, and those in the emerging Local Plan.

Whilst this appeal decision was still live the company sought an alternative form of substantial 163% floorspace extension to 19,059sq m (SW/01/0590) which the Council approved in 2002 as an alternative to the slightly larger extant appeal permission. Neither the appeal decision nor the 2002 decision were ever implemented and these permissions have lapsed.

### **Views of Consultees**

Lynsted with Kingsdown (LKPC) and Tonge Parish Councils held a joint public meeting in Lynsted with representatives from the Council's planning office and the applicants, and have since written jointly to oppose the application on the following summarised grounds;

- "The extent of expansion of this logistics and haulage business is totally inappropriate in this village and semi-rural location. The operation already has noise, visual, pollution and traffic impact and the proposed expansion would increase this activity to unacceptable levels. LKPC have received a number of complaints in the last two years about activities at the site including noise, damage to or unauthorised changes to bunds and problems with traffic entering or leaving the site.
- The A2, which runs through the centre of this community and serves the existing logistics operation is near to or at capacity. The traffic from Fowler Welch contributes significantly to this traffic, especially HGV. Any increase in traffic on a road so close to capacity has a disproportionately detrimental effect on congestion, asset condition and pollution. Further, our study of the transport assessment submitted with this application, plus the question and answer session at last week's public meeting have raised a number of concerns about the accuracy and credibility of the flows and traffic movements provided, which appear to be underestimated and do not appear to adequately set out growth."

*(The agent for the application has clarified that whilst the traffic survey was carried out on 29 August 2013 within the school holiday period, this period has limited impact on HGV movements, but as other traffic may have been lighter it can only exaggerate the proportionate impact of traffic from the proposed development.)*

- "The size and height of the proposed building would create considerable negative visual impact. Whilst the differences in the planning applications and rules are understood, it appears incongruous and inconsistent that a residential application directly opposite the proposed new building was restricted on height, but this application includes a large building nearly three metres higher than the existing warehouse.
- The applicants were unable or unwilling to discuss potential growth or existing capacity at the site and LKPC are not confident that additional expansion or

activities are only as described in the application. Very simply, the descriptions and the answers given to questions raised do not appear to add up to a credible business case and so our suspicion is that if this application is granted, the associated activity and operations would over time be much greater than described by the applicants.

- Whilst the incident does not yet appear in the published STATs 19 data, the site operators cannot be unaware that a fatal collision involving a HGV vehicle occurred at the site entrance in 2013. This highlights a number of concerns about the safety impact any increase in traffic at the location may have. The applicant has not offered any contribution to improving the access or to any traffic management scheme that might assist in improving safety and managing congestion.”

*(The agent for the application has noted that the fatal accident referred to occurred on 8 September 2013, after the traffic data for the application was prepared, and that whilst that accident is still being investigated it would be inappropriate to comment, other than to confirm that the applicants take safety seriously.)*

- “Our experience as a local parish council is that Fowler Welch is unconcerned about how its activities affect the local community and environment and has no interest or intention of considering or mitigating these impacts, now or in future. In addition to previous issues, this was illustrated for us at the public meeting when the applicant representatives were invited to describe any benefit to the local community and were unable to do so.”

Teynham Parish Council object to the application on grounds of the extra traffic resulting in pollution and excessive wear on the roads

English Heritage does not wish to offer specific comments on the application.

Southern Water initially requested a condition requiring details of foul and surface water drainage proposals, and noted that SUDS systems are not adoptable meaning that the applicant will need to arrange for long term maintenance of such systems and this should be specified to the Local planning Authority. They have since raised no objection to discharge to foul drainage.

The County Archaeological Officer notes the location on the main Roman road (A2) and recommends a condition requiring field evaluation works and safeguarding measures related to possible remains. The applicants have since carried out archaeological excavations on the site and I am awaiting further advice from the County Archaeological Officer.

The Head of Service Delivery has examined the applicants’ air quality assessment report. Having done so, whilst he notes local concern about any increase in traffic through local Air Quality Management Areas (AQMAs), he agrees that the likely additional traffic will have a negligible impact on local air quality, and he raises no objection to the application. He does suggest that should planning permission be granted the Council might seek a financial contribution towards another junction on the M2 to divert traffic away from the nearby AQMAs.

Kent Highway Services (KHS) have reviewed the applicants’ traffic data and methodology, which show that the proposal will generate an additional 43 HGV movements in each direction (86 in total) spread reasonably evenly over a 24 hour period. This they estimate represents a less than 0.5% increase in traffic flows on the A2 during peak hours, including less than 3% west and 2% east increases for HGVs. This is not considered significant enough to warrant objection by KHS as they would not materially affect the capacity of the A2 or any of its junctions.

KHS therefore do not object to the application, but do suggest some conditions relating to the construction phase, parking and cycle parking, should planning permission be granted. I have recommended those conditions which are required by the nature of the works proposed.

### **Other Representations**

The Chairman of Swale CPRE/Protect Kent has written to object to the application because the facility is located in a far from optimum position, with traffic flowing through Sittingbourne and Faversham/Ospringe causing congestion, harming air quality and resulting in significant road damage. It is also sited in a diminishing gap between Bapchild and Teynham where buildings are generally close to the road and susceptible to damage from passing heavy traffic. It now has limited relevance to the local agricultural community and will offer little local employment. The site is on high quality agricultural land and the expansion, being higher than the existing depot, will be visually intrusive, and these disadvantages are not outweighed by any real benefits to the local economy.

I have received 30 letters from residents of Teynham and of some living on the A2 in Sittingbourne and Ospringe, and one on behalf of an anonymous local company (which the applicants' agent suggests should carry no weight), objecting to the application on the following summarised grounds:

- More noise pollution and traffic on a 24 hour basis, with lorries often in convoys, will spoil the residential amenities of properties in this tranquil rural area, particularly in the summer months and windows will not be able to be left open day or night or ventilation due to the noise. Leading to lack of sleep and poor quality of life, even having soundproofed our house at our own expense
- Fumes turning surfaces black and hard to clean – and refrigerated vehicles sitting at traffic lights with motors running
- Additional particulates, toxins, carbon dioxide and NO<sub>2</sub> from exhausts affecting air quality in narrow built up areas such as Ospringe and Sittingbourne and creating a health hazard, and being emitted from lorry exhausts as bedroom level
- The road is totally unsuitable for the constant flow of this sort of vehicle. The applicants should pay to improve the road
- The 30 mph speed limit is not always adhered to by many road users
- Lorries should be banned from accessing the site to or from the Faversham direction –as the company have previously said does not happen
- The site entrance could be improved by providing an acceleration lane for lorries joining the A2 towards Sittingbourne, or a roundabout to slow down passing traffic and improve safety
- Damage through vibration to listed buildings due to poor road surfaces, broken manhole covers, leading to cracking to house on the A2
- There was a fatal road accident involving one of the applicant's vehicles and a motorcyclist outside the site in 2013, and it is only a matter of time until this happens again
- The company used to own land at Detling aerodrome where this expansion would be better sited

- The expansion should await the direct connection to the M2 which is being suggested, so avoiding use of unsuitable roads, and continued damage to local properties, community and environment. The applicants should fund a link to the M2 from their site
- We were led to believe that the lorries would use the Northern Relief Road (NRR) to get to the M2, but as this is not yet finished, or going to happen at all, the lorries go past people's houses – in any case lorries will still go through Sittingbourne so that drivers can stop for food, drinks, newspapers, cigarettes etc so you cannot assume use of a by-pass
- The company should contribute to the NRR and a width restriction at Bapchild
- All traffic has to pass through either the narrow parts of London Road in Teynham or Bapchild and Sittingbourne to reach the motorway
- There are six schools on or close to the A2 between Teynham and Westlands, has this been considered?
- Traffic congestion affecting flow of traffic, and danger to pedestrians on the narrow footpaths, and to cyclists when the lorries go past due to strong backdrafts, and sometimes actually clipping those on the pavements
- In previous applications residents were promised improved road drainage which we do not seem to have – standing water drenches adjacent properties when the large lorries go past, causing decay to property and windows
- In 1995 and 1998 objections were withdrawn on the basis of promises of certain local works which have since not been done
- It was previously promised to employ local people but the packing was moved to Eurolink – there is a rumour that this is to be moved back, so not creating real new jobs at all – and jobs on the Eurolink are already better located for the M2 access, especially as it is foreign fruit that will be packed
- Previous traffic estimates of no more than 50 extra lorry movements per day from past expansions will now be exceeded. We expect an additional 200 lorries per day with this proposal – not the 10 to 15 stated – up to 500 lorry movements per day. It makes no sense to spend £9 million to double in size and only increase traffic by 4.17%
- This scheme with four new HGV loading bays might generate another 392 lorry movements per week

*(The agent for the application has suggested that the figure of 200 extra lorry movements per day is incorrect, and that any representations based on this information should carry no weight in the decision making process.)*

- Extra traffic is not just the lorries, but extra staff driving to work – different sorts of traffic should not be mixed
- The applicant's traffic figures were only done over one 24 hour period, can this be accurate?
- Cumulative impact of various schemes that will add to traffic on the A2 – this cannot be widened without demolishing whole communities
- Previously planning permission was granted on appeal in 1998 for expansion to over 20,000sq m of floorspace and 44 loading bays. Subsequently the Council approved expansion to 19,000sq m and 57 loading bays in 2002. Neither scheme was built and both permissions have expired. Little weight should be afforded to those permissions

*(The agent for the application agrees that little weight should be afforded to the previous historic planning permissions.)*



- The current scheme is to expand to 12,000sq m with a net total of 21 loading bays, so the applicant says that traffic will be less than previously approved
- How can a 50% increase in floorspace equate to only a 24% increase in traffic? This is an over simplification and the predicted HGV figures are similar to those predicted for the far larger expansions previously approved – meaning that the suggestion that far greater potential traffic increases have previously been approved is wrong

*(The agent for the application argues that it would be unrealistic to offer detailed figures for capacity of existing loading bays, other than to assume that they work at maximum capacity.)*

- Even if the applicants do not increase their number of lorry drivers this does not prevent an increase in agency or sub-contract drivers which is common practice in the industry

*(The agent for the application states that the applicants' employment figures take account of agency and sub contract labour.)*

- It is totally inappropriate for the area to have such a business located; it should be on an industrial estate or out of town site where there is better access to the road network
- One of the application drawings shows a new entrance onto the A2

*(This appears to refer to an external door on the east side of the building facing the site entrance.)*

- Little local employment because of automation. This is not to do with supporting local agriculture as previous approvals were, but for a regional, national and international distribution hub
- The plans are to provide facilities for imported produce such as stone and exotic fruit, and relate to a completely different food supply chain from that which existed 15/16 years ago.
- There is no longer an overriding agricultural need for the facility to be situated in a rural location and in fact it now lends itself to being located within a purpose built industrial estate where the road network and environment are better suited to dealing with HGVs on a 24 hour basis, such as north-west Sittingbourne with good access to the M2/A249 and Channel ports as well as to the supermarket depots it serves
- There is no detail given of the likely quantum of imported produce that will be handled. Furthermore this product will arrive densely packed but leave far less densely packed, requiring more lorry movements maybe 50% to 60% higher

*(The agent for the application has suggested that 10-15 lorry deliveries will result from the handling of foreign produce, and that despatches of this produce will be part of existing delivery arrangements.)*

- The current use of the depot is quite different from its original purpose, as a consolidating hub rather than a packhouse for local produce; this use has higher relative traffic volumes
- This scheme moves the site closer to local homes increasing noise from fans at high level – it was far smaller once and this expansion is unfair on neighbours who moved in when it was so – could Councillors view the site from neighbours' gardens?
- The site will be far more prominent than it is now and spoil rural views, industrialising the western approach to Teynham; it will be overpowering and out of scale with the neighbouring buildings along the A2

- Loss of high grade agricultural land
- Impact on grade II listed building
- The proposed lagoon has no public access, no indications of wildlife benefits, and is simply a drainage pond to circumvent local flooding – the area already suffers from flooding, where will this water go?
- Impact on property values along the A2 and making it impossible to sell and move house
- Inadequate consultation, which should be expanded to all communities on the A2 from Faversham to Sittingbourne, as the impact goes far further than the immediate area
- Previous planning permissions were granted in different policy contexts, including the Sittingbourne etc. Town Map (1969), the Kent Structure Plan (1996) and Regional Planning Guidance (now abolished). The 2008 Swale Borough Local Plan has replaced all these policies and provides an adopted local planning policy framework where none existing in 1998
- The Local Plan shows the site as outside any urban area and in the countryside. Policy RC1 seeks to promote the rural economy but only where proposals are in scale with the locality and where significant traffic is not generated to the detriment of the character of the surrounding area, or where it might generate unsustainable travel patterns

*(The agent for the application argues that policy B1 of the Local Plan positively supports the proposal.)*

- If approved, restrictions should be placed on hours of construction, use of local lanes by construction traffic and for overnight parking, reduction in noise from reversing alarms and upgrading of local power supplies

One letter says that the application is very good news for the local area and good to see investment in road haulage; and that objections will be raised wherever such facilities be proposed despite the public's demand for full supermarket shelves.

## **Policies**

The NPPF was released on 27<sup>th</sup> March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

The 12 month period noted above has expired. As such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This was carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

The NPPF, amongst other things, sets out that sustainable development should be approved, that the natural environment should be protected, and that Local Planning Authorities should recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. Sustainable development is defined in relation to three key roles – economic, social and environmental which should not be undertaken in isolation from one another. This may involve making it easier for jobs to be created in cities, towns and villages; achieving net gains for nature; better design; improving living conditions and widening the choice of homes.

The NPPF makes it clear that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise, and it specifically encourages plan-led development providing a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. It also seeks that planning be creative and support infrastructure necessary for thriving local places, meeting housing, business and other development needs, protecting the countryside whilst preferring use of land of lesser environmental value and making the fullest possible use of public transport, walking and cycling.

At paragraphs 18 to 21 the NPPF supports sustainable economic growth, which it says should be given significant weight, and which should be planned for including the identification of strategic sites for local and inward investment to meet anticipated growth needs, as well as reacting to changes in economic circumstances.

Paragraph 28 of the NPPF supports a prosperous rural economy through the sustainable growth and expansion of all types of enterprise via conversion of rural buildings and well designed new buildings, promoting diversification of agriculture, tourism and leisure, and retention of local services and facilities.

At paragraphs 29 to 41 the NPPF encourages sustainable transport through reducing the need to travel, choice in travel mode and reductions in emissions. Plans that generate significant movement should be located where the need to travel is minimised, but in rural areas this needs to be balanced against other objectives. Development should be located where they can facilitate the efficient delivery of goods, give priority to pedestrian and cycle travel, include travel plans, and minimise journey lengths.

At paragraphs 109 to 125 the NPPF seeks to conserve and enhance the natural environment, prioritising the use of previously developed land, using land of lower environmental quality, safeguarding the best and most versatile agricultural land, and encouraging biodiversity whilst safeguarding against pollution whether in terms of noise, light spill or air quality. Listed buildings are heritage assets which should be conserved and any harm to them should be weighed against the public benefit of a proposal.

At paragraphs 160 to 161 the NPPF states that Local Planning Authorities should have a clear understanding of business needs within the economic markets operating in and across their area. It adds that they should work closely with the business community to understand their changing needs and identify and address barriers to investment; with the needs of the food production industry and any barriers to investment here highlighted for special attention.

The Development Plan comprises the saved policies of the adopted Swale Borough Local Plan 2008. This Plan was intended to cover the period to 2016 so is not out of date. It does not contain any site specific policies for the application site. The following saved Local Plan policies are relevant to this proposal and whilst it is important to remember that the Local Plan should be read as a whole, without focussing on any individual policy, I have highlighted below **those policies most directly relevant to consideration of the application in bold type** and which I will discuss in more detail below.:-

SP1 (Sustainable development)

SP2 (Environment)

**SP3 (Economy)**

**SP5 (Rural Communities)**

**TG1 (Thames Gateway Planning area)**

SH1 (Settlement hierarchy)

E1 (General Development Criteria)

**E6 (The countryside)**

E9 (Landscape)

E11 (Protecting and enhancing the Borough's Biodiversity and Geological Interests)

**E14 (Development Involving Listed Buildings)**

E19 (Design)

**B1 (Supporting and Retaining Existing Employment Land and Businesses)**

**B2 (Providing for New Employment)**

B11 (Ridham and Kemsley, Sittingbourne)

B14 (New Employment Sites)

B21 (Neatscourt, Queenborough)

B22 (Land at Westminster)

**RC1 (Helping to Revitalise the Rural Economy)**

**T1 (Providing Safe Access to New Development)**

T3 (Vehicle parking) and

T4 (Cyclists and Pedestrians)

T5 (Public Transport)

**Policy SP3** seeks to achieve a step change in economic performance and to optimise the Borough's economic potential by broadening the economic base, supporting growth of companies, supporting implementation of employment land commitments and supporting appropriate employment opportunities in rural areas to sustain local communities.

**Policy SP5** seeks to protect the countryside from unnecessary development and supports proposals that assist its sustainable management.

**Policy TG1** sets the broad objectives for the Thames Gateway part of the Borough which this site lies at the extreme eastern end of. These objectives include;

To secure the implementation of already identified major employment sites at Queenborough and in north and north east Sittingbourne

To diversify local employment especially by supporting Kent Science Park

To raise environmental standards and provide essential transport infrastructure to assist economic development e.g. the Sittingbourne Northern Relief Road

Promoting rural self-sufficiency through protecting and permitting services and facilities

**Policy E6** seeks to protect the countryside from development but has exceptions. Put simply for land outside the defined urban area boundary, as the application site is, only those developments necessary for maintaining and enhancing landscape character, biodiversity, community, social and economic needs of the countryside will be considered appropriate. In this context the application site is shown as within the countryside for planning purposes on the proposals map of the Local Plan.

**Policy E14** seeks to ensure that listed buildings and their settings are preserved, with special attention being paid to the desirability of removing unsightly or negative features or restoring or reinstating historic features.

**Policy B1** seeks both to retain existing employment land, but also to allow existing businesses to expand on-site, or onto adjoining land and, if this involves greenfield land to mitigate against any adverse effects upon biodiversity and landscape.

**Policy B2** provides for new employment development on sites shown on the proposals map and other sites within built up areas. In addition for rural sites development should be in accordance with policy RC1.

**Policy RC1** seeks to help to diversify the rural economy where the development;

Is appropriate in scale with its locality and the site retains its rural character

Has a positive impact upon, and no detriment to, landscape character, biodiversity or countryside conservation

Does not result in a significant increase in traffic to the detriment of the character, quiet enjoyment or safety of lanes, or create unsustainable travel patterns

Makes maximum use of existing buildings, or previously developed land ahead of greenfield development, and

Is the reuse of an existing building does not detract from its significance

**Policy T1** requires that new development should not generate volumes of traffic in excess of the capacity of the highway network, or result in a decrease in safety on the highway network. Furthermore development should not lead to the formation or intensification of use of an access onto a primary or secondary road or route unless safety is preserved. In this context the A2 running past this site is shown as a secondary route on Map 3 of the Swale Borough Local Plan 2008 (page 79).

The emerging Local Plan has been subject to first round of public consultation (2013) but as it has not yet been submitted for examination it can be afforded little weight. In any case it very much continues the approach of the adopted and saved Local Plan policies with the exception of significant housing growth at Teynham.

## **Discussion**

The applicants in this case sought pre-application advice early last year about the significant expansion of the depot. My advice was written in the context of an expansion to serve the important local agricultural community, with regard to likely concerns over traffic, visual impact and air quality. My advice also rehearsed the appeal decision and its context together with the question of relocation of the entire depot to a more accessible location. The applicants have addressed the issues I raised with them. In my view the general issues still most at stake are indeed those identified by the appeal Inspector, with the addition of air quality given the more recent introduction of AQMAs on the main HGV routes to and from the site. As such I consider that the main issues to be considered in this application are whether or not;

The site is suitably related to the highway network;

The traffic generated by the proposed development would be prejudicial to conditions on the highway A2;

The proposal would be inappropriately located in the rural area to the west of the defined built-up confines of Teynham;

It would unacceptably result in the loss of agricultural land of high quality;

Impact on the setting of nearby listed buildings; and

It would unacceptably affect air quality

## **Traffic and highways**

Taking the first two matters together, I note that most of the local opposition to the application cites traffic as one of the main objections to the application. Inevitably there are questions about the validity of the applicants' traffic data and the possibility

that it might underestimate actual traffic flows from the completed development. I acknowledge that these are real fears and may have some foundation. In practice the amount of traffic will be impossible to control. However, the overall size of the development, the number of loading docks proposed, and the traffic predictions now proposed are all far less than those that were before the appeal Inspector in 1998. Traffic predictions are below the widely accepted threshold of an increase in traffic of 5% for establishing a significant impact; although I readily acknowledge that even a 5% increase on a road as busy as the A2 is still a big increase, and that it would in fact require a massive scale of development to trigger such an increase.

Nevertheless, despite the Inspector's rather unrealistic conclusions in relation to the Teynham and Osprunge by-passes at the time, he did make one highly valid observation. This site is hard by the A2, which is a secondary route where traffic should be directed to. I appreciate that those who choose to live alongside the A2 consider it already too busy and too dangerous, with potential for damage to property and a risk of accidents; and that this concern has been highlighted by a fatality too recent to be mentioned in the application documentation. However, the predicted traffic increases from this development are of a very minor scale in proportion to existing flows on the A2 and it would be easy for the applicants to argue that refusal of planning permission on grounds of harm arising from additional traffic flows would be unsupportable by evidence and in my view unreasonable. The Inspector roundly rejected the Council's traffic concerns previously, even when the Council's case was fully supported by Kent Highway Officers at the public inquiry. He concluded that the Council's then allegation that the site was insufficiently well related to the national highway network to be "wholly misplaced" and without regard to statutory policies. These are unusually strong words. Overall, I do not consider that traffic, or indeed the possible increase in nuisance from additional traffic, to be a robust reason to reject this application; or that the application can be said to be contrary to policy T1 of the Swale Borough Local Plan 2008.

Members should also bear in mind the applicants' offer of a Section 106 Agreement to implement a Travel Plan and to buy only the latest specification lorries – factors that the appeal Inspector set some store by previously. The location of the site is also in many ways a sustainable one, on a good bus route, with Teynham benefitting from a mainline railway station and a sizeable population which might be increased substantially under draft Local Plan proposals.

I would strongly advise Members against coming to a decision to refuse the application on traffic and/or highway safety grounds.

### Location

The third issue I identify above is whether or not the development should take place in the rural area west of Teynham. The Inspector saw this as a ribbon of development and an area which could not be described as open countryside. I am mindful of the fact that he had no up to date local level policy document to define the extent of urban areas, or where they ended and the countryside took over. He acknowledged that the Town Map was out of date and relied only on county wide plans for his definition of the planning status of the site. This situation has now changed.

The Swale Borough Local Plan 2008 defines a built up area for Teynham, and one for Bapchild. The site is neither within or adjoining either. As such the site lies detached from any settlement and in what I would describe as open countryside,

albeit alongside the A2. The landscape here is very open and views from public places across the site, especially from higher levels to the south of the site are extensive. The site is currently visually well contained, and the scale of expansion proposed will significantly extend the silhouette of the site from the south. The landscaping scheme proposed will have some visual benefit vis-a-vis views of the current depot, and for biodiversity, and the revised landscaping arrangement and reduction in size of the development site significantly reduces the harm I identified from the proposal when first submitted. Amendments to the scheme provide better screening from the east, from the roadside, and more appropriate locally characteristic planting from the west, with the sharply defined steep sided bunds less prominent and not now enclosing fresh land unnecessarily. The changes reduce my concern in relation to the original scheme where I concluded that it appeared to breach the principle that landscaping should be used to settle acceptable development into its surroundings; not to hide something that should not be put there in the first place. I now find the landscaping proposals far more acceptable.

Another very significant change in the proposals now is the reduction in roof height, to no more than that of the existing depot building. I previously considered that a building of the scale then envisaged could not be seen as acceptable in a rural location unless that location itself is vital to the development. The appeal decision placed great weight on the role of the depot as a vital conduit between the local agricultural community, as then supported by specific Structure Plan policy, and the applicants have been at pains to point out the vital link between mixed loads and the continuing competitiveness of this depot in securing access to national markets for local produce. The site has been developed to serve the local agricultural community and it is well placed to do so. The move to mixed loads has a less immediately clear need to be located here but the need to maintain the competitiveness of local produce must rank as one of the more vital needs of the Borough's economy. As part of a project to strengthen the competitiveness of local produce I consider that this project warrants a high degree of support from the Council.

The NPPF strongly supports sustainable economic development. Local Plan policies for economic development (B1, B2 and RC1) taken together encourage expansion of existing businesses, the provision of suitable land, and a prosperous rural economy. Whilst the appellant claims that the proposal is wholly supported by policy B1 (which refers to expansion on-site or on adjacent land) I consider that a more thorough and rounded view of the Local Plan's aims should be taken.

Policy RC1 is the policy that most directly applies to the rural economy and this starts by seeking to ensure that development is in scale with its locality and that the site retains its rural character and has a positive impact on countryside conservation. I did not consider that this development respected those objectives in its original form. However, the scheme has been refined to the extent that it does not have the same degree of adverse consequence that it first did. In 1998 the Inspector was faced with a choice between supporting greater facilities for the important local agricultural community on this well positioned existing site, or seeing it move to a location that was further from its produce origins and not yet available. The issue now is how to best maintain the competitiveness of local produce and if that is to have mixed loads that can offer efficiency savings, then that will happen, whether it is at this site or elsewhere, probably far from local production. I would much prefer it to be here to strengthen the position of local growers..

As such, the need to have the extension at the application site boils down to its continuing role in providing competitive access to national markets for local produce.

My original view is that any other reasonably accessible location in Kent would be as beneficial as this one for consolidating loads of foreign produce has changed. On this ground I find that this proposal is supported by a need to be located at this albeit rural location, and that the less visually intrusive scheme now developed far better matches the need to the inevitable impact of the enlarged depot. To this extent I see the issues in this regard as very similar to those before the Inspector in 1998.

### Agricultural land

In its original form this proposal included an extensive bunded zone which effectively doubled the overall site area, much of it without being needed to accommodate the development, and whilst this land is in the ownership of the applicants, it is still capable of agricultural use.

The NPPF, for all its support for sustainable economic growth, quite specifically (at paragraph 112) asks local planning authorities to consider the economic and other benefits of the best and most versatile agricultural land and, where significant development of agricultural land is demonstrated to be necessary, encourages use of poorer quality land.

The appeal Inspector addressed the same issue in 1998, albeit in the context of no poorer quality land to direct the site's expansion to. He said that considerable weight should be given to protection of the land and that its development did not accord with development plan policies. However, at 2.59ha (in 1998) he argued that this amounted to mere fractions of the large farms concerned (the land is not now owned by those farms but by the applicants) and that loss would not affect agricultural production "to an unacceptable degree".

My view now is that great weight should be afforded to the protection of the agricultural land, but that the application now avoids any unnecessary loss of agricultural land and that this issue would not now represent a reason for refusal of this application. My conclusion is that the loss of best and most versatile land envisaged by the proposal is acceptable.

### Impact on listed buildings

Claxfield House is to be given a garden setting, which can only improve its current very degraded setting. The appeal Inspector welcomed such a proposal in 1998 but it never happened. However, the real prize would be its return to use and a sustainable future. The applicants have recognised this issue. They have not only proposed to further enhance the setting of the house, but are prepared to commit to its refurbishment and marketing; the terms of which I hope to explore further with them before the meeting. I consider this to a small but significant benefit of approval of this application as the Council has no power to insist the building is used; and this one has been disused for quite some time.

It is not the only listed building nearby. Claxfield Farm to the east would be little affected by the westward expansion of the depot especially with the enhanced landscaping now proposed, but there are three other listed building in this direction. Inevitably, by drawing closer to them, their settings will not be enhanced. I am not convinced that the impacts here have been very carefully considered by the applicants, but I accept that the more locally characteristic planting plans now envisaged will make the depot itself less prominent from these directions..



As such, I consider the likely impacts on the settings of nearby listed buildings overall to be broadly neutral apart from Claxfield House itself where I feel that useful gains are now proposed.

### Impact on air quality

This issue is new since the 1998 appeal, and post-dates the declaration of AQMAs in Ospringe and Sittingbourne, some as recently as 2013. I appreciate that any increase in traffic, especially HGV traffic through such areas is undesirable, and I made it clear at pre-application stage that this issue should be taken seriously. The Head of Service Delivery has examined the applicants' evidence on this issue and does not raise objection to the application. As such I conclude that the evidence of significant harm here does not exist and that it would not be appropriate to raise an objection to this application on this ground.

Nor do I consider it reasonable to seek a financial contribution to a new M2 junction when no project for this yet exists.

### **Recommendation**

I have outlined above the six main factors at stake in determining this application. On the first two issues, the position of the site relative to the highway network and traffic generation, I have made clear that I do not consider that there are reasonable grounds to reject the application on these grounds.

I have also concluded that impact on listed buildings and on air quality are not strong grounds for refusal, and that in fact the listed building issues are now tilted in favour of approval.

I recognise that the proposal has economic development and employment benefits and is in accordance with Local Plan policy B1. I have also drawn attention to the requirement for development to be plan-led and to protect the countryside and high quality agricultural land. In these terms I have found that the development in its amended form does far more to meet rural development objectives and is closely related to the continuing competitiveness of local agriculture. It also now significantly reduces its adverse local environmental impacts. I now consider that the scheme is far more plan-led and the effect of this proposal on the rural character of this site is acceptable in relation to its local significance.

The scale of development has been reduced, as has its likely visual impact from public viewpoints, with more appropriate landscaping as opposed to the excessive enclosure of undeveloped land which would have appeared insensitive to the importance of this issue, and out of step with current national planning policy for safeguarding high quality agricultural land.

In overall conclusion, I now find the economic and employment advantages to more closely balance with the need for development to be plan-led and to have proper regard to conservation of the countryside and high quality agricultural land. I recommend that planning permission is granted.

### **List of Background papers**

1.Application papers and correspondence for applications SW/13/1573

2.Application papers and correspondence for applications SW/92/1045, SW/96/858, SW/01/0590 and SW/13 0215

3.Appeal decision dated 30 June 1998 ref APP/V2255/A/97/286345

Report of the Head of Planning

**PART 3**

Application for which **REFUSAL** is recommended

<b>3.1</b>	<b>SW/14/0391 (Case 25395)</b>	<b>Hernhill</b>
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- Location :** Land Adjacent Acorns, Butlers Hill, Dargate, Nr.Faversham, Kent, ME13 9HG
- Proposal :** Proposed dwelling to replace former cottage & associated works
- Applicant/Agent :** Mrs Beryl Chipperton, C/o Mr Richard Jones, Richard Jones Architects, Ostlers, Chitty Lane, Chislet, Nr Canterbury, Kent, CT3 4DZ
- Application Valid :** 26 March 2014
- 8 Week Target :** 21 May 2014

**Reason for Refusal**

The proposed dwelling, being situated outside any defined built-up area boundary and therefore in the countryside for planning purposes, would represent an undesirable encroachment of development in the countryside to the detriment of the countryside as a whole, particularly when noting the history of the site which includes the Council already approving a substantial extension to the property known as 'Acorns'. Therefore the proposal is contrary to policies E1 and E6 of the Swale Borough Local Plan 2008 and paragraph 55 of the National Planning Policy Framework.

**Description of Proposal**

This application is for the replacement of a detached double garage building with a two bedroom bungalow with attached conservatory. The dwelling would have a floor plan measuring 127 square metres, with the existing garage being 96 square metres. One bedroom would be in the roofspace. The roofslope shows three rooflights, and a tall metal chimney serving a wood burning stove.

The submitted description of the proposal states that the dwelling would 'replace former cottage'; it should be noted that the building has been used as a garage/outbuilding and not as a dwelling since 1975 (please see relevant site history below). The proposed dwelling would be served by two car parking spaces and a garden, with access via the existing driveway which also serves 'Acorns'.

A Planning Statement accompanies the application. This highlights the rural location of the site and emphasises that it is close to many services. It recognises the restrictive planning policy context but suggests that the planning history of the property and the “liberalised approach to planning” in the NPPF are factors in favour of approval.

### **Relevant Site History and Description**

The history for the site is a little complicated, which could account for the confused description of the proposal.

Prior to 1975, there were two small bungalows on the site. In 1975, an application for a detached house and conversion of one of the bungalows to a garage was refused (planning reference SW/75/14). An application later that year for a chalet bungalow and the conversion of the second bungalow to the present double garage (the application site) was approved under reference SW/75/807. Subsequently the planning status of the building in question has been as an ancillary garage since 1975 to the dwelling now known as Acorns.

Another significant planning application was submitted in 2002 for a very large extension to the chalet bungalow (Acorns) which effectively turned it into a six bedroomed 2 storey house (SW/02/0381). Normally, such an extension would not be allowed, but it was considered at the time that as there had originally been two separate dwellings on the site, the extension should be allowed as a ‘quid pro quo’. The site is thus now occupied by a substantial house instead of the original two small bungalows

In 2008, an application for a large outbuilding comprising parking space for three cars and a store at ground level with a studio on the first floor was approved under reference SW08/0563.

In 2013, it came to Officers’ attention that the studio above the garage was being used as a self-catering holiday let, contrary to condition 4 of the planning approval which stated that ‘*The use of the building shall be incidental to the enjoyment of the dwelling and shall not be used for any commercial or other purposes.*’ Officers contacted the applicant, who made an application to regularise this use, which was approved under reference SW/13/1105, but with strict conditions ensuring that the use of the building would be as a holiday let only, as a new permanent dwelling would be contrary to national and local planning policy.

Both this site and the main property itself are near to but outside the Dargate Conservation Area, and outside of any established built up area boundary. It is within an Area of High Landscape Value as defined on the proposals map of the Swale Borough Local Plan 2008.

## **Views of Consultees**

Hernhill Parish Council supports the application, commenting as follows:

- *'The proposed site was a former dwelling, and in replacing the former dwelling should not be considered as setting a precedent for new development on land.*
- *The site extends to approximately 5 acres which would easily support 2 properties*
- *The proposed site is not visible from the road and will not be detrimental to the neighbouring conservation area*
- *The proposed site is within about a mile of the nearest public shop and local towns can be reached by the village bus service which runs 3 times a day.*
- *If SBC are intending to grant permission for the application then there will be no request for a site meeting. However, if SBC are intending to refuse permission for the application then the parish council would like to attend a site meeting with the applicant and SBC to discuss the matter in more detail and allowing the applicant, parish council and locals to voice their views to members of the Planning Committee.'*

## **Other Representations**

Three emails of support have been received from local residents. Their comments may be summarised as follows:

- A good use of an existing building
- Little impact on vehicular or pedestrian traffic
- Could bring benefit to the local area and local business
- The applicant is a very pro-active member of the village community – she would ensure minimal disruption during construction
- Dargate has high landscape value
- Will enhance the present building
- Far more aesthetically pleasing building than the present one
- Screened by trees – cannot be seen from the road or footpaths
- *'An eminently sensible proposal'*

One lengthy letter of concern has been received from a local resident. The comments therein may be summarised as follows:

- The low density of housing in Dargate was considered a major factor in Dargate becoming a Conservation Area
- Once permission is given for one site, it is hard to see how other applications could be refused
- Problems with water run-off would be exacerbated
- *'Although the planning application is described as "dwelling to replace former cottage", in reality it is a proposal to replace a garage. The residential use was transferred forty years ago to Acorns, a four-bedroomed detached property which in recent years has been extended considerably.'*
- *'Another large block has also been built, presented as a four-car garage when planning permission was sought, but shortly converted into holiday*

*accommodation. If the current application were to succeed, it would mean that a site once supporting one modest cottage would feature a five/six bedroom detached house, a large holiday letting block, the new house, a swimming pool and ancillary building, plus large hard-standing areas.'*

- A main road convenience store a mile away does not support an argument for new builds in the village
- Swale's Local Plan is not outdated, as claimed by the agent
- The claim that the development would preserve or enhance the countryside '*is at best fanciful and at worst false*'
- Problems of flooding and groundwater

### **Development Plan Policies**

#### Swale Borough Local Plan 2008

E1 – General Development Criteria

E6 – Countryside

E9 – Preserving the Borough's Landscape

E15 – Conservation Areas

RC7 – Rural Lanes

#### National Planning Policy Framework (NPPF)

Paragraph 55, specifically refers to promoting sustainable development in rural areas.

### **Discussion**

This application is for the replacement of a garage building with a dwelling at land adjacent to Acorns, Butlers Hill, Dargate. Members will have noted the history for the site, and will draw their own conclusions.

I have minor concerns with regard to small areas of design for the proposed property, such as the rather prominent flue, but none of these are issues which could not be overcome. The issue which cannot be overcome is one of policy and principle.

The site stands some considerable distance outside of any built-up area boundary, within the countryside and a very rural area. As such, policies of rural restraint apply. Policy E6 of the Swale Borough Local Plan states that:

*'The quality, character and amenity value of the wider countryside of the Borough, which is all the land falling outside the built up area boundaries as defined on the Proposals Map Insets, will be protected and where possible enhanced.'*

The policy then goes on to suggest those exceptional cases when development will be permitted, such as for agricultural workers; providing a community facility; affordable housing; etc. None of these circumstances apply to the present proposal.

As such, it is necessary to look at the evolution of the site, to discover whether there are any other factors which might make the proposal acceptable. I would contend

that the proposal fails on the abovementioned policy E6, but in order to treat the proposal in a fair and open manner, the history of the site should be taken into account. The abovementioned 1975 application allowed the conversion of this building from a dwelling to a garage, and that has been its designated planning use for nearly forty years. It also allowed for a new chalet bungalow (property now known as 'Acorns') to be built on the site; that dwelling was somewhat larger than the dwelling which it replaced on the basis that it was a replacement for two small bungalows.

'Acorns' was further extended in 2002, thereby making it a six bedroomed house. Normally, such a sizeable extension within the countryside would have been refused, but it was considered that the loss of the garage (the subject of the current proposal) as a dwelling rendered that 2002 proposal to be acceptable. Therefore, any status that the building would have once had as a dwelling, even though changed in 1975, was further taken into account in 2002. This appears to have been a somewhat generous decision, which in my opinion further erodes the validity of the present arguments in favour of approval of this application.

It should also be remembered that a new four bay garage with studio above was allowed in 2008, and that, despite the fact that the studio was used for some time as a holiday let in direct contravention of a condition preventing its separate use, the Council still gave the applicant the benefit of the doubt and allowed such use in 2013 as part of its support for rural tourism development.

It should further be noted that a swimming pool and associated pool building have also been constructed, presumably under permitted development rights.

In terms of sustainability, paragraph 2.5 of the statement accompanying the application attempts to justify the sustainability of the site, and reads as follows: *'There are no shops in Hernhill Village or in Dargate itself, but there is a well-stocked small SPAR supermarket at the petrol filling station on the Thanet Way and that is just 1 mile and a few minutes from the application site; beyond that, 1.7 miles away, is the Monkshill Farm shop and café. The everyday needs of Dargate residents can therefore be met within a very short distance and travel time. There is a doctor's medical centre less than four miles away on the outskirts of Whitstable, and Whitstable town and the Tesco's superstore on the Old Thanet Way are both less than five miles from Dargate; Canterbury, the major sub-regional shopping centre is about 6.5 miles away.'* In my opinion, this only goes to prove the unsustainability of the site, as it emphasises its position deep within the countryside, at some distance from essential amenities.

Paragraph 55 of the National Planning Policy Framework (NPPF) refers to promoting sustainable development in rural areas, and states that *'Local Planning Authorities should avoid new isolated homes in the countryside'*. I would therefore contend that the lack of sustainability of the site means that the proposal fails to satisfy both local and national planning policy.

Hernhill Parish Council has requested a site meeting so that Members of the Planning Committee can view the site for themselves. It is of course a decision for Members to decide whether or not they wish to conduct a site meeting, but as the

main objections to the application are issues of principle and policy, I am unsure with regard as to how a site visit would assist Members in making their decision.

I am further of the opinion that, if this application was approved, as the site is so far outside of any built-up area boundaries, it would set a very serious precedent for new properties similarly situated in the countryside.

In conclusion, the application fails to satisfy the requirements of both national and local planning policy. If the current application was to succeed, it would mean that a site, clearly within the countryside and some considerable distance outside any built-up area boundary, that once supported two modest bungalows would instead support a six bedroom detached house, a large holiday letting block, the new house, a swimming pool and ancillary building. This is clearly unsustainable and contrary to both local and national planning policies.

### **Recommendation**

Taking the above into account, I recommend that planning permission be refused.

### **List of Background papers**

3. Application papers and correspondence for SW/14/0391.
4. Application papers and correspondence for SW/13/1105.
5. Application papers and correspondence for SW/08/0563.
6. Application papers and correspondence for SW/02/0381.
7. Application papers and correspondence for SW/75/807.
8. Application papers and correspondence for SW/75/14.



**Location :** Land at Perry Court, (East of Brogdale Road, West of Ashford Road), Faversham, Kent, ME13 8YA

**Proposal :** Outline application (with all matters reserved other than access into the site) for a mixed use development comprising: up to 315 dwellings; 11,875sqm of B1a (offices) floorspace; 3,800sqm of B1b (research and development) floorspace; 2,850sqm of B1c (Light industrial) floorspace; a hotel (use class C1)(up to 3,250sqm) of up to 100 bedrooms including an ancillary restaurant; a care home (use class C2)(up to 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; internal accesses; associated landscaping and open space; areas of play; a noise attenuation bund north of the M2; vehicular and pedestrian accesses from Ashford Road and Brogdale Road; and all other associated infrastructure.

**Applicant/Agent :** Hallam Land Management Ltd, C/o Mr David Murray Cox, Barton Willmore, Beansheaf Farmhouse, Bourne Close, Calcot, Reading, Berkshire, RG31 7BW

**Application Valid :** 10 January 2014

**8 Week Target :** 07 March 2014

**16-Week Target:** 2 May 2014

### **REASONS FOR REFUSAL**

1. The impact and scale of development would not represent sustainable development and will conflict with the policies directed toward the conservation, enhancement and overall development restraint at Faversham and the remaining areas of the Borough. The proposals, outside the well-defined urban boundaries of Faversham, would:
  - a. Fail to consider, recognise or support the town's role and character derived from Faversham's compact urban form and historic development, predominantly north of the A2. This would detract from the intrinsic character and beauty of the countryside, and be harmful to the landscape and wider setting of Faversham and its rural approaches; and

- a. Result in the unnecessary development of Grade 1, Grade 2 and Grade 3a agricultural land, classed as best and most versatile land.

This amounts to harm that both significantly and demonstrably outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough, to the provision of affordable dwellings and potential employment). Development is therefore contrary to policies SP1, TG1, FAV1, SH1, E1, E6, E9, E15, E19 H2 and H5 of the Swale Borough Local Plan 2008; and to policies ST1, ST3, ST7, DM14, DM30 and DM32 of Bearing Fruits 2031, the Swale Borough Local Plan (consultation draft – August 2013). Development would also be contrary to paragraphs 14, 17, 49, 55, 110 112 and 134 of the National Planning Policy Framework

2. Notwithstanding the 'in principle' offer to make a payment in lieu of on-site pitch provision, by not providing pitches as part of the development the proposal fails to make provision for Gypsies and Travellers and fails to fulfill the social role of sustainable development, contrary to paragraphs 7, 50 and 69 of the National Planning Policy Framework and the need to plan for strong, healthy and vibrant communities and to address the need for all types of housing based on the needs of different groups in the community. Development would also be contrary to policy SP4 the Swale Borough Local Plan 2008 and to draft policies CP3 and DM10 of Bearing Fruits 2031, the Swale Borough Local Plan (consultation draft – August 2013).

### **Council's approach to this application:**

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case – and despite the fact that the application follows pre-application discussions - the proposed development conflicts fundamentally with the guidance in the NPPF and with Local Plan (Swale Borough Local Plan 2008) and Emerging Local Plan (Bearing Fruits 2013, August 2013) as such, and although I have worked with the applicant, it has not been possible to reach a positive outcome.

### **Description of Proposal**

Planning permission is sought in outline - with all matters except access reserved for future consideration – for a mixed use development on land at Perry Court, east of Brogdale Road and west of Ashford Road (the A251) in Faversham.

The development would consist of the following elements:

“Up to 315 dwellings” (the Planning Statement explains [at paragraphs 3.17 and 3.18] that these would be arranged into zones with densities in the range 25 to 35 dwellings per hectare and 40 to 75 dwellings, with the higher densities focused in the south east of the residential area. The Parameters Plan shows the possible disposition of the zones. The dwellings would typically be two or 2.5 storeys in height. The housing would occupy approximately nine hectares of the site, in the northern and central areas, and all of it would be located more than 200 metres from the southern site boundary.

The agent has confirmed that the applicant is willing to “...*commit to the provision of 35% affordable housing...*”

A convenience store (200 square metres) would be provided within Zone B of the residential development component.

Floorspace for employment uses falling within classes B1(a)(offices), B1(b)(research and development) and B1(c)(light industrial) is proposed on three hectares of the site, close to the south-east corner and described as Zone E. The floor area would total 18, 525 square metres, comprising 11,875 square metres (B1a), 3,800 square metres (B1b), and 2850 square metres for B1c. In this part of the development, buildings would be up to three storeys (or circa 12.5 metres) in height and potentially extend to 49.5 metres above Ordnance datum (AOD).

Provision is also made, immediately to the west of Zone E, for a two-hectare potential extension to the Employment Land, and as set out in the Planning Statement at Paragraph 3.4, this would be subject of a separate planning application in due course in the event that the initial scheme is approved and subsequently built out.

The spine road, running into the site from the A251 junction – which I describe below - would be flanked by a hotel on its southern side (a 100-bedroom building on 0.75 hectares known as Zone D, and which the Parameters plan suggests would be two storey, up to 11 metres in height and with a floor area of up to 3250 square metres) and on the northern side by a care home (Use Class C2, to have up to 60 rooms and measure up to 3800 square metres; this two-storey building would occupy a 0.5-hectare site known as Zone C).

It is important to note that the remaining 15.05 hectares of the site (or just under 50%) would be occupied by a limited network of internal circulation roads (shown indicatively on the Parameters Plan) but predominantly by open space, landscaped areas, the noise attenuation bund (to measure up to three metres height and extend for approximately 390 metres, running close to and parallel with the M2); proposed areas of play, and SUDS ponds and other features to accommodate surface water runoff. The Illustrative Layout suggests that part of this 15.05 hectares could be used as allotments and a separate area (just south of 2, Ash Tree Cottages) as a community orchard.

Members will note that the mix of uses does not include on-site provision for gypsy and traveller pitches. This is discussed at paragraph 10.58 of the Planning

Statement, where it is stated that “...*the applicant may be willing to consider making a financial contribution towards gypsy and traveller pitches [off site]...*” However, this offer is only on the basis that the financial contribution meets the tests set out at Regulation 122(2) of the Community Infrastructure Levy Regulations (2010), which are re-stated in Paragraph 204 of the NPPF, which I refer to in the ‘Policies’ section below. The applicant has subsequently re-stated this stance and suggests that neither the Government guidance ‘Planning Policy for Traveller Sites’ (2012) nor the documents that the Council has produced on the matter of gypsy / traveller provision set out a requirement for housing sites to include gypsy / traveller pitches.

### Access

Members will note that the Illustrative Layout is one of the plans that show the proposed access arrangements, namely two vehicular access points and a total of seven pedestrian / cycle access points, three of which relate to the public right of way (ZF18) that crosses the site and therefore already exist.

Vehicular access would be from a main junction on the A251, a roundabout to be centred approximately 220 metres north of the northern access / egress from Junction 6 of the M2. This would serve most of the development, approximately two thirds of the proposed housing and all of the commercial elements as described above (namely A4, A5, C, D, E and the additional land safeguarded for employment uses as shown on the Parameters Plan).

The Planning Statement explains (at paragraph 3.19) that a secondary access (described as a priority t-junction) would be provided on to Brogdale Road, 50 metres to the north of 1, Ash Tree Cottages.

Although the internal configuration, is not part of this application, the indicative layout suggests that the secondary access would serve an element of the proposed housing (identified as A1, A2 and A3 on the Parameters Plan) and consisting of approximately three hectares of housing, or just over one third of the ‘up to 315 dwellings’ proposed.

Off-site highway improvements to A251 / A2 junction are also proposed, consisting of the installation of traffic signals. The Planning Statement (at paragraph 4, seventh bullet) asserts that this would amount to an enhancement, “*improving highway capacity in the area*”. Potential road safety benefits for all road users, including pedestrians are also anticipated.

Detailed drawings showing the two vehicular access junctions, the A251/A2 junction design and the signalised crossing proposed for the A2, just east of the Brogdale Road junction have been provided.

The application includes (but is not limited to) the following plans and statements, which together give a clear and thorough explanation of the mix of uses proposed and set out the arguments in favour of the grant of planning permission:

### *Statements:*

## Planning Statement

To which I make various references above, and in the 'Discussion' section below.

On Pages 31 to 36, the housing land supply issue is addressed. On Page 36 (Paragraph 6.51), it is concluded that:

*"It is clear on the basis of the available evidence [that], SBC is unable to demonstrate a five year supply of deliverable housing sites."*

Paragraphs 10.51 to 10.58, on Pages 69 and 70, deal with developer contributions, including affordable housing provision.

## Design and Access Statement

This sets out a thorough explanation for the scheme, including a 'policy summary', the 'response to context' and full details of the proposed scheme.

## Environmental Statement (ES) and Non-Technical Summary

Various references are made to the ES below, and Members are encouraged to have regard to this document, which is key to understanding the potential environmental implications of the proposed development, and importantly sets out the applicant's argument that the potential adverse impacts could be mitigated.

Further to Chapter 7 (Ecology and Nature Conservation), the applicant has provided a detailed letter (dated 11 April 2014), which responds to issues raised by KCC Ecology following consideration of the initial submission. I refer to this in the 'Discussion' below.

Chapter 9 deals with Air Quality implications, including for the Ospinge Air Quality Management Area (AQMA), which is located approximately 500 metres to the west of the application site.

Chapter 10 addresses Noise and Vibration. In addition, the planning agent has provided an explanatory note, which responds to the comments of the Head of Service Delivery and notes that the current British Standards guidelines advises that the guideline noise levels might not always be achievable and that there may be instances where *"...a compromise between elevated noise levels and other factors, such as the convenience of living in a particular level...might be warranted..."*

A Transport Assessment (TA), which forms Volume 3 of the ES, has been provided and this sets out an evaluation of the implications of the development for traffic flow / highway safety on both the local road network (which is the responsibility of KHS) and the strategic road network (the responsibility of the Highways Agency). Among other things, proposals for off-site highway mitigation are described.

A draft Travel Plan, setting out measures to support green, non-car modes of travel is appended to the TA.

## Statement of Community Engagement

This sets out how the applicant and their consultant team have sought to engage with the “*general public and the wider community*”, including an analysis of the outcomes of the public consultation event held on 12<sup>th</sup> and 13<sup>th</sup> July 2013.

On Page 17, the Conclusion sets out, among other things, how the initial proposals were amended in an effort to address issues raised during the public consultation process.

## Economic Benefits Statement

Pages 16 to 20 of this report are devoted to the potential economic benefits of the development. The job creation analysis is broken down between construction phase and operational phase (which I address below), and with regard to the former it is suggested that the development would “...*provide 111 construction jobs per annum over a period of four years (2015 to 2019)*...” and the consequent gross value added is estimated at £4.7 million per annum.

The document also discusses other potential economic benefits associated with the residential elements of the application, which include receipts from the New Homes Bonus (over a six-year period) and from additional Council Tax, which respectively are estimated at a total of £2 million and £400, 000 per annum.

## The Contribution to Economic Development

Among other things, this document explains the evidence base and thought processes that lie behind the proposed mix of employment uses, including explaining why the proposals do not include either general industrial (Class B2) or storage / distribution (Class B8) floor space. Members will note in this regard the conclusions of the ‘Employment Land Allocations in Faversham’ chapter, on Pages 31 and 32.

The document also sets out, on Page 37, forecasts for employment creation as a result of the development. A grand total of 1,024 jobs “*associated with the Perry Court proposals*” are forecast. It is stated though that “...*the new site will partly fill up through the re-location of employers from elsewhere in the town...*”

## Renewable Energy Assessment and Sustainability Statement

This should be read together with the additional letter dated 5<sup>th</sup> March 2014, which seeks to address the comments made by the Council’s Climate Change Officer.

## Sequential Assessment Report

This document seeks to explain – as required by Paragraph 24 of the NPPF - why the proposed main town centre uses (B1 office space, hotel and convenience store) should be approved at this location in preference to provision on other sites in and around Faversham Town Centre.

## Impact Assessment

The application is also supported by an assessment of the potential implications of the office component of the development for the vitality and viability of Faversham town centre. The assessment is submitted pursuant to the requirements of Paragraph 26 of the NPPF, and concludes that “...we do not consider that the proposed development will have a significant adverse on Faversham Town Centre’s office function and health. This is mainly because there is limited office floorspace within Faversham Town Centre.”

Services Supply Strategy and Assessment of Faversham’s Historic Growth statements have also been submitted.

## Other Documents

Members will note that the agent has provided a response to the objections submitted by CPRE Protect Kent, Faversham Town Council and Ospringe Parish Council.

Finally, an additional statement has also been provided dealing with the implications for the supply of best and most versatile farmland. This responds to the initial consultation response from the Council’s Agricultural Consultant and I evaluate its contents in the ‘Discussion’ below.

## *Plans*

The application is accompanied by the following plans: Parameters Plan, Illustrative Masterplan, Red Line Plan, Highway / junction improvement plans (showing ‘proposed interventions’, ‘proposed roundabout’, ‘proposed junction, Brogdale Road’), a Development Masterplan and a Topographical Survey (which also identifies existing trees, bushes and saplings).

## **Relevant Site History & Description**

### *History*

Although withdrawn from the appeal process in 1991, an outline application SW/91/807 (case 13731) was made for the development of an enterprise park comprising a mix of B1 (office / light industrial), B2 (general industrial) and B8 (storage / distribution) uses, hotel, open space and landscaping and associated / ancillary development at the application site. The Council refused permission for a number of reasons, including its detriment to the character and appearance of the area south of the A2. Even the offer of a substantial payment toward the Ospringe Bypass as proposed at that time failed to persuade the Council that a “south of A2” position should be favoured.

Planning permission has been granted for a “rack build facility” (SW/11/0959) – to the south of the Grade II listed oast house (which is located to the west of Perry Court) – and which would sit between the listed building and the proposed housing.

The listed building is located just to the north of the north-western corner of the application site.

The oast and malt house is the only listed building on land in very close proximity to the application site. English Heritage describe the building as follows:

*“This is a fine building of its kind, dating from 1904... It is a composite building consisting of 2 square oast houses at the East end, 1 at the West end and a 3-storey malthouse or granary between. Red brick. The centre portion has 3 storeys and 4 windows. Slate roof. Casement windows with cambered head linings. Double doors with cambered head linings, on the ground floor only on the North side, but on each floor on the South side with gabled hood over the 2nd floor supported on brackets. The oast houses at the ends of the buildings have pyramidal slate roofs with the tops cut off to make way for the cowls.”*

This building, and the other listed buildings in the broader vicinity of the site are shown on Figure 2 of Chapter 2 to the appendices to the ES.

### *Site Description*

As noted above, the land extends from west to east from the Brogdale Road to the Ashford Road (A251). The southern boundary is with the M2, between the bridge taking Brogdale Road over the motorway to the western part of Junction 6, a distance of just over 600 metres.

The submitted documents explain that the application site is located approximately 930 metres from Faversham’s Town Centre Shopping Area, which is identified in the Local Plan pursuant to Policy B3.

The Topographical Survey submitted shows that the site is undulating with the highest points in the south-west (circa 38.5 metres AOD) and south-east (circa 37 metres AOD); the lowest point is in the north-west corner (circa 25 metres AOD), close to Brogdale Road and adjoining the rear gardens of 1 and 2, Perry Court Cottages.

As noted in the Planning Statement, the agricultural fields that make up the site are *“defined by hedgerows which run in a north – south direction”*. There are no buildings on the site, and trees are confined largely to the site edges and sporadically in a line running north-south through the centre of the site, which in part forms a hedge. The application is supported by an Arboricultural Assessment (Appendix 7.2 to the ES), which among others suggests that the vast majority of the existing trees at the site would be retained if the development were to be approved and subsequently built out.

### *Agricultural Land*

The site is currently in use for agricultural purposes. Of the 30.36 hectares (or approximately 75 acres) site area, it is stated in Chapter 15 of the Environmental Statement (ES) that 13.6 hectares are Grade 1, 7.3 hectares Grade 2 and 3.3 hectares are Grade 3.a. Therefore 27.2 hectares (or 67.2 acres) fall within the best and most versatile category. This amounts to approximately 90% of the application site area.



Members will have noted above that a *Public Right of Way*, namely ZF18, bisects the site, running east and then north from Brogdale Road to the northern site boundary, immediately to the east of Perry Court.

No part of the site has any *Local Plan designation*. Members will appreciate that the site is located outside the defined built-up area boundary for Faversham as set out in the adopted Local Plan, and therefore subject to Policy E6 (set out in full in the 'Policies' section below), which seeks to restrain development in the countryside and to protect rural areas for their own sake.

Members will also note that to the north of the site the Faversham Conservation Area extends quite close to it (notably where it projects south of the London Road immediately to the east of the Ashford Road). Members will note that the relationship between the application site and the Conservation Area and the positions of listed buildings are shown on Figure 2 in the appendices to the ES.

It will also be noted that just to the south of the application site, on the southern side of the M2, the land is identified as a Special Landscape Area and that slightly further to the west the landscape has the national designation of Area of Outstanding Natural Beauty (AONB), being part of the Kent Downs AONB.

I am mindful that land at Oare and Faversham Creeks and along the Swale is designated as a Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Ramsar Site on account of their ecological value, notably breeding and wintering birds (see Appendix 7.6 of the ES for details). Figure 1 of the ES shows the spatial relationship between these designations and the application site; Members will note that these designations are a minimum of approximately two kilometres (or 1.25 miles) from the northern edge of the application site.

Most of the site is located in the Faversham Town Council area. However, a small section of the site, in the south-west corner (bounded by Brogdale Road and the M2), is located in Ospringe Parish.

The site is predominantly located within Watling ward, but a small component falls within East Downs ward.

KHS are currently carrying out public consultation on a range of options for potential improvements to the junction of A2 / A251. These include the possible introduction of traffic signals or the provision of a roundabout. It is understood that funding is in place to deliver the option that is ultimately selected.

### **Views of Consultees**

The **Climate Change Officer** raises no objection, and is generally positive about supporting documents and makes various detailed comments on them.

As noted elsewhere, additional information has been received in response to these comments and I discuss it below.

**Housing Services** raise no objection, but request that 35% of the dwellings (111 dwellings, if full 315 dwellings were developed) be affordable housing, in accordance with the emerging Local Plan, Policy DM10. With regard to the proposed care home, they question whether evidence has been submitted to demonstrate a need, and wonder whether Kent County Council are supportive of it.

The **Health and Safety Executive** have written (further to the PADHI+ exercise conducted by Council officers) confirming that their advice is “*do not advise against*” the development.

The **Agricultural Consultant** notes that the development would result in the loss of some 30.5 hectares of agricultural land. He notes that 27.2 hectares of this fall within Grade 1, 2 and 3a and therefore is classed as best and most versatile. Reference is made to Paragraph 112 of the NPPF and to the Natural England Technical Information Note 049, which both highlight the value and importance of BMV farmland, with the former suggesting that “...*where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.*” He concludes that it is for the Council to judge whether this conflict with national guidance is out-weighed by other arguments in favour of the grant of planning permission.

As noted elsewhere, additional information has been received in response to these comments and I discuss it below.

**Kent Police** raise no objection, and note that some of their previous advice has been incorporated in the application now submitted. Reference is also made to various parts of the Planning Statement (namely on Pages 17, 21 and 76) that are relevant to designing out opportunities for crime and anti-social behaviour.

**Southern Water Services** raise no objection, but there is not considered to be capacity either for foul drainage or surface water drainage to connect to local networks. They suggest the imposition of a condition requiring the submission and approval of details for both before development is commenced and suggest liaison directly with them. They also note the reference to the use of SUDS and make clear the importance of good on-going management of any such system.

The **Highways Agency** initially issued a holding objection, pending the preparation of a revision to the original Transport Assessment to fully assess the implications of development traffic for Junction 7 (Brenley Corner) of the M2. In the light of additional information, however, the **HA** raise no objection to the development, noting that “*there is no severe material impact on either junction [6 or 7 of the M2] as a result of this proposal.*”

They also state though that: “*We are aware of your plans for your forthcoming Local Plan. Should this site be permitted it will increase the likelihood of works to these junctions being required to accommodate future development, dependant of course on the amount of development allocated.*”

**Kent Highways Services** have responded to consultation about the proposed development. In particular, they have reviewed the submitted details, including the

Transport Assessment, and consider the implications of the scheme for the future operation of a number of existing road junctions in the vicinity of the site (notably in respect of the M2, the A2, the A251, Brogdale Road, Ospringe Road and The Mall), and the proposed road junctions to provide access / egress with the A251 and Brogdale Road. They also comment on sustainable transport and travel planning.

The need for additional works / actions are identified as follows:

A2/Brogdale Road: works are not proposed, but mitigation should be included in the off-site works;

A2/Ospringe Road: works are not proposed, but mitigation should be included in off-site works;

A251/site access: the proposed roundabout needs to be amended to ensure that suitable pedestrian access is provided – none are currently envisaged, and the existing pavements are on the opposite (eastern) side of the A251; and

Brogdale Road/site access: the existing pedestrian access is on the opposite (western) side of the road and the proposal would not provide a connection to allow pedestrians to safely access the development.

The **Public Rights of Way Officer at Kent County Council** raises no objection, but has identified requirements for '*improvements and future maintenance*' if permission is granted, including a contribution for off-site works to a value of £90,000 to PROW ZF18 to allow it to be upgraded to a shared cycle and pedestrian path. Where ZF18 runs through the development it should be a minimum of 2.5 metres width and surfaced to a standard agreed with KCC.

The **County Archaeologist** raises no objection subject to a condition requiring field evaluation works and, if required, evaluation, safeguarding and recording of finds. The field evaluation should preferably take place before the submission of the detailed planning application.

The **Ecologist at Kent County Council** initially reviewed the information set out in the ES (Chapter 7) and the appendices to it (7.1 to 7.6) in respect of bats, reptiles and birds. As well as considering the proposed ecological enhancements (set out under mitigation at 7.100 to 7.150), and the potential implications for The Swale Special Protection Area (SPA)/Ramsar site. Having done this, they requested additional information in respect of reptiles, bats and birds, and gave the Council advice in respect of the latter matters.

Additional information has, as noted above, subsequently been provided and it addresses the KCC points about birds in general and sky larks in particular, and provides clarification in respect of potential implications for the SPA / Ramsar site. In response, the **Ecologist at KCC** has provided a second letter, which raises no fundamental objection and sets out detailed measures to ensure that birds, bats and reptiles are safeguarded if the development goes ahead. They also suggest that the Council should screen the application to determine whether an Appropriate

Assessment is required under the Habitat Regulations, given the proximity to the SPA / Ramsar /SSSI site.

**Natural England** raise no objection, but give advice in respect of protected species, soils and land quality, biodiversity enhancements and landscape (noting the proximity to the AONB and suggesting that the AONB Partnership should be consulted and that the AONB Management Plan should be considered).

**English Heritage** comment on the application and I have summarised their views as following:

Consideration should be given to the implications for those aspects of Faversham's urban form that contribute to its significance as a historic asset;

Historically, Faversham grew up around the Creek and only with the development of the railway in the nineteenth century did the town begin to develop southwards, and even today there remains a sense that the A2 forms a southern bypass;

But for ribbons of development along arterial roads heading southwards, the A2 generally forms a southern limit to the urban area;

Consideration should be given to preserving those aspects of Faversham's morphology that contribute to its significance;

This site should be treated as forming part of the setting of the Faversham Conservation Area, as defined in Paragraph 56 of the NPPF;

The implications for the setting of the Grade II Malthouse and Oast House, at Perry Court, should be considered;

Consideration should be given to the potential cumulative implications of future infilling between the A2 and the M2 for heritage significance; and

The application should be determined in accordance with national and local policy guidance and your own conservation advice.

The **Environment Agency** raises no objection. The submitted Flood Risk Assessment is considered to be satisfactory and they support the proposed use of SUDS. They also comment on foul drainage, foundation design and make general comments about waste disposal and the storage of fuel, oil and chemicals.

### **Kent County Council – Families and Social Care Strategic**

**Commissioning** “do not support” the planning application, and, in particular, state that “*the national agenda is moving towards independent living and diverse and modern ways to house older people.*” Their information about the care home market suggests that the current supply is sufficient to meet the needs of the existing population in Faversham. The applicant's agent has written in response to these comments and refers, among other things, to Page 16 of the Planning Statement, where a justification for the care home is provided.

**Kent County Council – general planning comments** – this response re-states comments made separately, and summarised above, in respect of ecology and archaeology. In addition, it sets out KCC’s requirements – together with a justification for them - in respect of developer contributions and also deals briefly with the provision of ‘superfast fibre optic broadband’.

With regard to developer contributions the contributions required are as follows:

Primary education - £524.75 (per applicable flat, ie 56 square metres or over) and £2099 (per applicable house);

Secondary education - £257 (per applicable flat) and £1028 (per applicable house);

Community Learning - £43.35 per dwelling;

Youth services - £55.55 per dwelling;

Libraries - £230.09 per dwelling; and

Adult Social Care - £262.94 and delivery of three wheelchair accessible units as part of the affordable housing.

Given that the layout of the housing is a reserved matter, the ultimate number of dwellings and the mix of sizes and flats / houses are not known. Therefore it is not possible to calculate the total developer contribution that would ultimately be payable to KCC if the development came forward. With regard to the school contributions, it is suggested that the money is required to contribute towards the cost of funding extensions to one or more existing primary school(s), rather than being put towards the provision of an entirely new primary school.

Having said this, and mindful that there is a significant degree of fluidity in terms of the ultimate level of contributions that will be required by KCC for school places, I consider that this point would need to be re-visited at the reserved matters stage in the event that planning permission were to be granted for this development.

The **Head of Service Delivery** comments on various aspects of the development, namely noise (implications of the convenience store, plant noise from the employment uses, noise implications for the Abbey School), dust and mud during construction, hours of construction work, vibration and the implications of the proposed off-site highway changes for air quality, notably in the Ospringe Air Quality Management Area.

In respect of the latter, he concludes that the development will result in “...*small increases to the air pollution in the AQMA in Ospringe...but the amount of traffic generated is not sufficient to trigger a reason for refusal of the application...*” He goes on to note that the cumulative effect of this and other development that may come forward in the Faversham area could be a “...*gradual worsening...*” of air quality in the AQMA.

The other issues raised could, if outline planning permission is granted, be dealt with by planning condition or through measures incorporated at the reserved matters stage.

The **Economic Development Officer** comments on various aspect of the application. In particular:

- with regard to 'socio-economic context' he notes that 2001 data has been used and questions its usefulness;
- with regard to job forecasts, he suggests that in terms of the local population, the benefits may not be as substantial as suggested because (1) 'specialist contractors' may be brought in for elements of the construction phase and (2) for the operational phase the job creation estimates may be on the optimistic side;
- in response to the applicant's assessment of the benefits of this development in terms of a location for economic development, he agrees that accessibility to the M2 is an advantage but notes that the Lady Dane Farm site (reference SW/14/0045, which is discussed below) also benefits from "*reasonably good access*";
- with regard to delivery, he points out that in Swale there is not a strong history of delivering office floorspace and requests that a development appraisal be provided to underpin the applicant's assertions in respect of the deliverability of this element of the proposals;
- finally, the apparent lack of "*substantive...market research and testing*" for the commercial parts of the scheme is identified.

**Ospringle Parish Council** raise objection on grounds that read as follows:

*"We would like to point out that contrary to your letter of 15th January part of the application site [as noted above, a relatively small area at the south-west corner] is situated within Ospringle Parish.*

*Ospringle Parish Council are strongly opposed to this development. It is set within open countryside on prime agricultural land in a location which is not zoned for development within the Swale local plan.*

*The plan of the development shows a secondary vehicular access into Brogdale Road which we believe is unsuitable for the increased traffic that would be generated.*

*The development would exacerbate traffic problems on the A2 and A251 considerably and also add to the worsening pollution creep from the A2 traffic.*

*The development would place further pressure on the rural and semi-rural road network to the south and south west of the application site.*

*There is insufficient school capacity, in particular primary school capacity, in the area to cope with children of families who would move to the new development.*

*Overall, the parish council regards this development as being overly large for a traditional market town the size of Faversham."*

**Faversham Town Council** raise objection on FIVE grounds, which read as follows:

(1) *The proposed development would be contrary to the long-standing policy against development south of the A2. The purpose of this policy is not to prevent the development of the town but to ensure that development is in the right place and is not harmful to the setting of the town and its relationship with the surrounding countryside.*

(2) *During the consultation on the draft local plan options for development to the south of the A2 were given careful consideration and rejected in favour of alternative sites which would provide sufficient land for future needs and be less harmful to the setting of the town.*

(3) *The A2 provides a natural boundary for the development of the town and the way in which the town has developed to the north of Watling Street is of historical significance.*

(4) *The proposed development would result in a significant and damaging increase in traffic on Brogdale Road and would cause traffic congestion at the junction of Brogdale Road and the A2.*

(5) *The increase in traffic caused by the proposed development is likely to further adversely affect the already poor air quality in Ospringe Street.”*

The **Tourism Officer** makes ‘general observations’ about the hotel proposal only, and questions whether “the ambition in terms of size and scale is sustainable”; as Faversham is “...*still working to achieve destination status in tourism terms...will there be sufficient demand generated...*” However, if the hotel development is successful “...*it will clearly be of benefit to the area...*”

The **Greenspaces Manager** raises no objection to the application and welcomes the “*significant public open space*” and “*the varied formal and informal uses*” that are shown indicatively on the submitted drawings. He does though suggest that only one (not two) play areas are required. He also suggests that formal sport provision should, ideally, be located close to the pitches at the Abbey School – immediately to the north of the application site. With regard to the allotments it is suggested that, in general, these would not be adopted by the Council and instead would be the responsibility of the Town Council. Finally, it stated that a commuted sum would be required for a ten-year maintenance period from the adoption of open spaces by the Council.

### **Other Representations**

84 representations raising objection, expressing concerns or recommending that the application be refused have been received from third parties.

Members will note that a number of these are from the same addresses.

The points raised about the development are summarised as follows:

- Contrary to Council’s long-standing “rule of thumb” that there should be ‘no development south of the A2’ [as Members may be aware, neither the adopted Local Plan nor the emerging Local Plan, namely Bearing Fruits 2031, contain a specific policy to this effect]; to refuse would be consistent with decision on the ‘land at

Brogdale Road application (reference SW/13/1567)'; this Council and the Faversham Town Council should uphold this tough stance;

- Contrary to emerging Local Plan, Bearing Fruits 2031, which includes draft allocations for mixed use development elsewhere, including on land at Oare Gravel Works and land east of Love Lane [Members will note the detailed discussion of the emerging Local Plan in the 'Policies' section below; and that both of these sites are now subject to current planning applications];
- The Council's excellent pre-application advice service does not halt the submission of applications that do not comply with policy;
- Faversham, which is a small market town, is not an appropriate location for this development and lacks the transport infrastructure to support it;
- The development would damage "*the Town's charm and historic links*" and potentially deter visitors;
- Does Faversham need another care home?
- Provision of care home may be contrary to KCC strategy of seeking to help elderly people to stay in their own homes;
- The hotel – if indeed it is needed at all - would serve through traffic and reduce the number of people going into the town centre; the retail unit would also take trade away from town centre businesses;
- Public transport to serve the development is inadequate
- Development would detract from the ecological value, "*for indigenous birds and other wildlife*", of the site
- Anyone requiring light industrial floor-space can go to Ashford or use the units at Oare; more industrial floor-space is not required;
- Parts of the site are liable to flooding and therefore unsuitable for development;
- Developing this site could increase flood risk to other parts of Faversham as a result of increased run-off;
- There are sink holes in farmland in this area;
- Amounts to a substantial development out of proportion with Faversham;
- Scheme has many similarities with the recently-refused application for 12 dwellings on land adjacent 9 to 11, Ashford Road (reference SW/13/0670);
- Loss of Best and Most Versatile farmland (namely Grades 1, 2 and 3a), contrary to Government policy, should be resisted;
- Development on this green-field site – outside the defined built-up area boundary - is unacceptable and not sustainable; the re-development of available brown-field sites should be prioritised (such as the Nova garden furniture site and Cremer Whiting brickworks);
- Unacceptable 'Ribbon development' south along A251;
- Harmful impact on Faversham Conservation Area;
- Application is not supported by a full assessment of its implications, including with regard to the number of people who might ultimately reside at the development and the possible number of cars;
- Reporting of the pre-application public consultation exercise is misleading [see Statement of Community Engagement] and this over-states possible support for the development; actually, the mood locally is one of 'public hostility'
- Assessing this application, despite the fact that the emerging Local Plan allocates land for development at other locations in the vicinity of Faversham and not at Perry Court Farm, suggests that democratic process is being over turned in favour of developers' interests; Is it not futile to waste resources assessing this application



when it is clear that other applications are likely to be submitted that meet the Council's "critical criteria"?

- The traffic / highway modelling [see the Transport Assessment] is questioned, notably in respect of the assumptions under-pinning the modelling, the timing of the traffic surveys the computer software used and the consultant's suggested lack of local knowledge;
- The traffic study in support of the application is not sufficient;
- Faversham councillors on the Planning Committee are insufficient in number to protect the interests of the town; a public inquiry is needed "...to consider this very serious application..."
- The proposed roundabout on Ashford Road would disrupt traffic flow [on a road that already suffers regular and significant traffic congestion, particular during peak periods and / or when strategic traffic diverts off the M2 in an attempt to avoid congestion on the motorway, and is an accident blackspot], causing congestion, inconvenience for local residents, noise and air pollution;
- Development would add to noise pollution, notably as a result of extra traffic;
- There is the possibility of anti-social behaviour by pedestrians going from / to the site from the town centre;
- Unclear how the proposed development would link to the economy and physical fabric of Faversham;
- New pedestrian accesses on to Ashford Road [opposite Numbers 47 and 97, Ashford Road] from the development could also impact on traffic flow along the road;
- General traffic congestion would result on roads in and around Faversham, including on the A251, A2, Brogdale Road (which is unsuited to development on this scale) and the M2, in particular;
- Traffic lights, proposed as mitigation for this development, at the A2/A251 junction would not resolve traffic flow issues;
- Development, in particular the care home and hotel, would block views from dwellings on Ashford Road and from the bridleway towards Vicarage Lane [located to the west of the site];
- Care needs to be taken to ensure that pedestrian routes provide safe connections between the site and other parts of the town, both where the paths run alongside roads and where they are free-standing – crossing the A2 is particularly key as this is a significant hazard currently; and the paths shown [indicatively] within the site need to be carefully designed to safeguard the amenity of existing residents and other users;
- No scale model or similar has been provided to aid assessment / understanding of the application;
- How would water be supplied to the site?
- The housing development – although there may be demand for new housing - would have a harmful impact on the local housing market, reducing prevailing property prices;
- The existing sewage / water supply networks may not be able to accommodate this development;
- Local schools, GP surgeries and hospitals may not have sufficient capacity;
- "The emotionally calming sense of place" enjoyed by the Abbey School would be damaged;
- The predictions of office job creation are questionable and, in particular, jobs may simply be transferred from other locations, rather than amounting to genuinely new jobs;

- Housing and commercial uses are unlikely to work satisfactorily alongside one and other;
- Cumulative implications of this development and others in the vicinity need to be properly assessed;
- If approved, this would set a harmful precedent for other similar developments on land south of the A2;
- The loss of the 'green lung' could detract from the health of local people; and
- Numbers of new jobs created are likely to be out-weighed by the additional population as a result of the development.

One letter in support has been received. Points raised are summarised as follows:

- Scheme includes a mix of uses that is “a well thought out compromise”;
- Details of the scheme can be resolved by the council at the “detailed planning application stage”;
- The phased delivery of the development will enable residents to adjust to changes in traffic flow; and
- The “benefit to the community is high”.

In response, a third party questions the supporters “real motivation” and speculates on his job of work, while acknowledging that he is entitled to make his comments.

**Swale Footpaths Group** raise no objection, and state that responsibility for the management of open spaces needs to be clear, and ideally paths should have clear lanes for cycles and pedestrians.

The **Faversham Society** recommend refusal on grounds relating to: location south of the A2, location outside defined built-up area for Faversham, unsustainable development of a scale incompatible with Faversham, precedent for further infilling between M2 and A2, additional traffic to the detriment of local road safety, access would be hazardous for vehicles using the M2 junction 6, and hotel and restaurant would be used by passing traffic and contribute to amenities of Faversham.

The **Kent Downs AONB Management Unit** make ‘general observations’, noting that the development is on the boundary of the KDAONB, and request conditions “...to restrict lighting and mitigate against the loss of dark skies and respect the tranquillity of the KDAONB as required by Paragraph 125 of the NPPF.

**CPRE Protect Kent** have provided a lengthy representation in opposition to the proposed development. The issues raised are summarised as follows:

- New development should keep impact on the countryside to a minimum, and should be sustainable;
- Local Plan saved policies *are* up-to-date and the Council does have – in respect of Faversham - a five-year housing supply (to which a 5%, not 20%, buffer should be applied) contrary to the arguments presented by the applicant;
- This application is a cynical attempt to undermine the emerging Local Plan, which it seeks to pre-empt by proposing a mix of employment and housing now, in advance of adoption of Bearing Fruits;
- Application ignores the longstanding Local Plan strategy for Swale, which sub-divides the Borough into Thames Gateway and Faversham and rural hinterland planning areas, with development growth focused on the former

- Application site – which is not sustainable and therefore contrary to Paragraph 14 of the NPPF - is detached from the town, which has a compact form;
- Development will not encourage green, non-car modes of travel;
- Brownfield sites should be developed instead;
  
- Application will result in the loss of best and most versatile farmland;
- Development would be harmful to the character and landscape setting of Faversham;
- The upgrade of the A2/A251 junction is not a significant gain arising from the development – it is something that would be delivered anyway, and funding is in place for it;
- As a result of the development and, in particular, the new vehicular access to it, Brogdale Road will take on a ‘significant urbanising effect’;
- The A2 is already busy and subject to congestion, and this development would cancel out the effect of proposed highway improvements, and this could result in increased rat-running through the residential streets in the southern part of Faversham;
- The development would not preserve the setting of the Malthouse and Oast House at Perry Court Farm, and is therefore contrary to NPPF Paragraphs 128 to 132.
- The decision to refuse this application should be a “clear and straightforward” one

The planning agent has – as mentioned above - provided a letter, dated 25<sup>th</sup> April 2014, in response to this objection from CPRE. The letter also responds to the objections made by Faversham Town Council and Ospringe Parish Council.

Members are free to inspect the full copies of these representations, which are also available for the public.

### **Policies**

Members will note the application documents deal with the national and local planning policies in both the Design and Access Statement (pages 8 to 14) and the Planning Statement (pages 19 to 30).

### **National Planning Policy Framework (NPPF)(2012)**

The following paragraphs are considered to be of particular relevance to this development:

The NPPF has at its core the presumption in favour of sustainable development, and there are, it is suggested, three dimensions to this term: economic, social and environmental.

The NPPF was released on 27<sup>th</sup> March 2012 with immediate effect, however, **Paragraph 214** states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

The 12 month period noted above has expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Except where stated, all policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

**Paragraph 7** suggests the following roles for the planning system:

- *“An economic role – contributing to building a strong, responsive and competitive economy...*
- *A social role – supporting strong, vibrant and healthy communities...; and*
- *An environmental role – contributing to protecting and enhancing our natural, built and historic environment.”*

**Paragraph 9** states that “...pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life...”

The NPPF (see **Paragraph 12**) “...does not change the statutory status of the development plan as the starting point for decision making...development that accords with an up-to-date Local Plan [in this case, the saved policies of the Swale Borough Local Plan 2008] should be approved, and...development that conflicts should be refused unless material considerations indicate otherwise.”

**Paragraph 14** states that “at the heart of the NPPF is the **presumption in favour of sustainable development**...for decision-taking this means: approving development proposals that accord with the development plan without delay...”

**Paragraph 17** states that the “...conservation of heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations...” is a core planning principle “which should underpin decision taking”.

**Paragraph 18** states that “the Government is committed to ensuring economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meet the twin challenges of global competition and of a low carbon future.”

**Paragraph 24** states that a sequential test should be applied to planning applications for main town centre uses [which include hotel, retail and B1(a)(office) uses] that are not in an existing centre and are not in accordance with an up-to-date Local Plan. As noted above, a dedicated report has been submitted in support of the application.

**Paragraph 26** requires the provision of an impact assessment where more than 2500 square metres of retail or office space is proposed outside of town centre and where the development would not accord with an up-to-date Local Plan.

**Paragraph 47** sets out, among other things, the need for the Local Planning Authority to meet the “*full, objectively assessed needs for market and affordable housing...*” in their area and the need to “*identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of 5%...*”

**Paragraph 49** stipulates, among other things, that “*housing applications should be considered in the context of the presumption in favour of sustainable development.*”

**Paragraph 50** sets out criteria to aid the delivery of “*...a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities...*”

**Paragraph 55** states that new housing in rural areas should promote sustainable development, and be located so as to maintain or enhance the vitality of rural communities.

**Paragraphs 56 to 68** address ‘requiring good design’, and **Paragraph 56** asserts that “*Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*”

**Paragraph 69** planning decisions should aim to create places that are safe and accessible and promote meetings between members of the community who might not otherwise come into contact with each other.

**Paragraph 73** deals with high quality open spaces and opportunities for sport and recreation, and Local Plan policies for their provision should be based on robust and up-to-date assessment of the need for them.

**Paragraph 93** refers to the key role that planning plays in, among other things, “*...supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.*”

**Paragraph 96, 2<sup>nd</sup> bullet** states that in determining planning applications, local planning authorities should “*take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption*”.

**Paragraph 100** stipulates that “*Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary making it safe without increasing flood risk elsewhere.*”

At **Paragraph 109** it states, among other things, that “*...the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible.*”

**Paragraph 110** states that in preparing plans the aim should be to minimise pollution and other adverse effects.

**Paragraph 112** states that *“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land [namely Grades 1, 2 and 3a]. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”*

**Paragraph 115** notes, among other things, that *“Great weight should be given to conserving landscape and scenic beauty in...and Areas of Outstanding Natural Beauty...”*

**Paragraph 125** deals with light pollution and advises that *“...decisions should limit the impact of light pollution...on local amenity, intrinsically dark landscapes and nature conservation.”*

**Paragraph 129** requires local planning authorities to *“identify and assess the significance of any heritage asset that may be affected (including by development affecting the setting of a heritage asset) and to take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.”*

**Paragraphs 132 and 134** sets out that *“where a development proposal will 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 securing its optimum viable use.”*

**Paragraphs 186 and 187** relate to decision taking and require, among other things, local planning authorities to approach the matter *“in a positive way”* and to *“look for solutions rather than problems”*.

The determination of applications is covered at **Paragraphs 196 to 198**, and **Paragraph 197** instructs local planning authorities to *“...apply the presumption in favour of sustainable development.”*

The use of ‘planning conditions and obligations’ is addressed at **Paragraphs 203 to 206**. To a large extent, these paragraphs advocate the approach set out in the Community Infrastructure Levy (CIL) Regulations (2010), and in particular, Regulation 122 (2), and the NPPG guidance on the use of conditions in planning permissions.

And Members will note that **Paragraph 204** states the following:

*“Planning Obligations should only be sought where they meet all of the following tests:*

- \_ Necessary to make the development acceptable in planning terms;*
- \_ Directly related to the development; and*
- \_ Fairly and reasonably related in scale and kind to the development.”*

However, **Paragraph 205** adds a new onus on taking account of changes in market conditions and being *“...sufficiently flexible to prevent planned development from stalling.”*

**Paragraph 216** advises that decision takers can also give weight to relevant policies in emerging plans according to:

- the stage of preparation;
- the extent to which there are unresolved objections; and
- the degree of consistency between the emerging plan to the policies in the NPPF.

### Swale Borough Local Plan (2008)

The following policies of the SBLP (2008) have been 'saved' and are considered to be relevant here:

SP1 (sustainable development), SP2 (environment), SP3 (economy), SP4 (housing), TG1 (Thames Gateway Planning Area), FAV1 (The Faversham and Rest of Swale Planning Area), SH1 (settlement hierarchy), E1 (general development criteria), E6 (countryside – rural restraint), E9 (character and quality of landscape), E10 (trees and hedges), E11 (biodiversity in the Borough), E12 (designated biodiversity sites), E14 (listed buildings), E15 (conservation areas), E16 (archaeology), E19 (design), B2 (new employment space), B3 (town centre vitality and viability, including identification of Core and Secondary shopping areas – see Sheet 1B), B4 (new retail development), B5 (tourist facilities), H2 (new housing), H3 (providing affordable housing), H5 (housing allocations), U1 (servicing development), U3 (renewable energy), U4 (placing services underground), T1 (access to new development), T2 (improvements to highway network), T3 (vehicle parking), T4 (cycle parking), T5 (public transport), C3 (open space on new housing developments) and B14 (new employment sites, including land at Western Link and Oare Gravel Workings and others in Faversham area).

A critical consideration that Members should consider is the marked differences in the spatial strategy toward the Thames Gateway growth area part of the Borough as distinct from the 'Faversham and rest of Swale Planning area'. This is reflected in policies TG1/FAV1/SH1/H2 of the adopted Local Plan. In terms of scales of development the significant scales of growth are directed at the growth area whilst at Faversham conservation of the historic and natural environment are the prime and overriding considerations. Development levels are aimed at reflecting needs and environmental character to achieve a better balance between the population and employment opportunities alongside a reduction in commuting to other areas.

In terms of new housing, the Faversham area has its own dwelling target to 2016 that has already been exceeded.

The same approach to the Borough's spatial strategy has continued into the emerging draft Local Plan (see below).

I make particular reference to Policy E6 in the 'Discussion' below. It reads as follows:

#### ***"The Countryside***

*The quality, character and amenity value of the wider countryside of the Borough, which is all the land falling outside the built-up area boundaries as defined on the*

*Proposals Map Insets, will be protected and where possible enhanced. Development proposals will only be permitted when:*

*it is demonstrated to be necessary for agriculture, sustainable forestry or the winning of minerals;*

*it is the re-use or adaptation of an existing rural building, in accordance with Policy RC1 & Policy RC6; or*

*it provides a service that enables existing rural communities to meet their essential needs locally, in accordance with Policy RC2; or*

*it relates to the acceptable rebuilding, or modest extension, of a dwelling currently in residential use in accordance with Policy RC4; or*

*it relates to a site for affordable housing in accordance with Policy RC3; or*

*it relates to a site for gypsies or travelling showpersons in accordance with Policy H4; or*

*it relates to a change of use to garden land in accordance with Policy RC10; or*

*it provides for necessary community infrastructure; or*

*it is a site allocated in the Local Plan.”*

### Bearing Fruits 2031(Consultation Draft – August 2013)

As Members will no doubt be aware, work has been going-on for some-time now on a replacement Local Plan; the initial draft, known as ‘Bearing Fruits’, was subjected to a period of public consultation during spring 2012. Since then, there have been important changes to the national planning arrangements, notably the publication of the National Planning Policy Framework (NPPF), which I have discussed above.

This new draft will take account of these changes and also reflect the consultation responses received as a result of the initial consultation exercise.

The document is currently at quite an early stage in terms of the overall process that will culminate, following independent scrutiny by a Planning Inspector, in the adoption of a new Local Plan. As such, its policies can only be afforded limited weight in the assessment of a planning application such as this, and I do not considered it appropriate to set out all the policies that could be argued to have relevance to the proposed development. I do, however, consider that the following draft policies warrant specific mention:

ST1 (delivering sustainable development), ST3 (Swale development strategy), ST7 (Faversham area and Kent Downs strategy), CP1 (strong economy), A6 (land at Western Link), A7 (Oare Gravel Workings), A8 (land east of Love Lane), DM8 (affordable housing), DM14 (general development criteria), DM20 (sustainable design and construction), DM30 (agricultural land, and which seeks to restrict development on BMV farmland), and DM32 (development affecting a conservation area).

In addition, Policy DM10 (gypsy and traveller sites) requires, among other things, that for developments of 150 dwellings or more “...unless a commuted sum has been agreed with the Council, 1% of the total number of dwellings proposed shall be serviced and made available to Gypsies and Travellers as pitches...”



For new housing, although development levels remained restrained relative to the Thames Gateway growth area there is a proposed increase for both housing and employment on the adopted Local Plan with the continued context being the conservation and enhancement of the built and natural environment.

With regard to the draft allocations set out at Policies A7 and A8 - which Members will appreciate would be extensions to the existing developed area of Faversham – and to the status of the application site, the following context should be kept in mind:

The emerging Local Plan initiated a debate on the most appropriate location for growth at the town and identified initially three options:

- Option A: Land at Perry Court Farm (the application site).
- Option B: Land between Ashford Road and Salters Lane.
- Option C: Land at Lady Dane Farm, Love Lane.

For its 2012 Local Plan consultation, the Council's potential preference was Option C, but indicated that this would be kept under review. The Council's Sustainability Appraisal concluded:

*“The options for employment related development at Faversham could result in a variety of sustainability effects. All of the sites identified in each of the options are located in close proximity to the primary road network and Faversham town centre, and would help to boost the amount of employment in the Borough. However, Options A and B both have the potential to have a detrimental effect on local areas of heritage value and landscape setting. Option C has a positive impact on a number of the SA topics, although further investigation would be required to establish the impact that potential development would have on biodiversity and soil.”*

During and after the 2012 consultation, the owners of the site at Oare Gravel Works (a 'saved' 2008 Local Plan employment allocation) emerged with a clear intention to bring the site forward on a similar basis as the other option sites. This significant change was one of the reasons why the Council resolved to undertake a further Local Plan consultation in August 2013. In this draft, the Council indicated that it was mindful to accept the Oare (Option D) site as its preferred option, but given some uncertainties, indicated that the Option C site would function as a 'reserve' and, in so doing, rejected sites A and B.

The Sustainability Appraisal of the August 2013 Local Plan re-considered the position with the introduction of the Oare site:

*“The Council's preferred choice for allocating employment land at Faversham is Option D- Oare Gravel workings site with Option C allocated as a reserve site should Option D not come forward. This is partially in line with the interim appraisal findings which found that when compared to all the other options, Option C was the least constrained by sensitive environmental features. Option D would have positive effects with regards to avoiding the loss of high grade agricultural land and remediating contaminated land, although there are number of potentially negative effects on the environment which would need to be addressed through mitigation. As part of the redevelopment of Option D there would however be opportunities to enhance on-site biodiversity and heritage assets.”*

In December 2013, the LDF Panel considered the consultation results and resolved to allocate both sites – a decision further refined at a second meeting on February 20<sup>th</sup> 2014. This meeting confirmed the allocation of the Lady Farm site for 200

dwellings and 20,000 square metres of employment floorspace, together with 300 dwellings at Oare (with 1,500 square metres of employment floorspace).

The Western Link allocation (Policy A6) sits aside from this process, because unlike the other allocations at Faversham it is located within the existing (2008 Local Plan) built-up area boundary for the town and is well related to the existing pattern of residential development.

The adopted Supplementary Planning Documents 'Developer Contributions' (2009) and 'Swale Landscape Character and Biodiversity Appraisal' (2011) are relevant to this application.

The SPD on developer contributions sets out the Council's requirements in respect of, among other things, developer contributions for housing and employment development. Typically, these include off-site highway improvements, contributions for play equipment / open space provision, provision of wheelie bins, contributions for education (primary, secondary and adult), libraries, adult social care, and the 5% monitoring charge (levied against the sum of all financial contributions that are payable)

The 'Swale Landscape Character and Biodiversity Appraisal' (2011) is a tool to aid the assessment of landscape quality across the Borough and to underpin the evaluation of the potential landscape and visual amenity implications of development proposals. The document identifies the application site as falling within the 'Faversham and Ospringe Fruit Belt', which is considered to be in 'good' condition and of 'moderate' sensitivity.

As part of the preparation of Bearing Fruits, the Council commissioned landscape evidence in respect of what might be appropriate urban extensions to the Borough's main settlements. The June 2010 Swale Urban Extension Landscape Capacity Study considered the application site and noted that although some minor development could be potentially accommodated, given the rural character of the southern part of Brogdale Road, and the largely rural approach to Faversham, it would not be appropriate for development to extend significantly to the south of the Abbey School toward the M2. It also noted that development would not be appropriate immediately to the south of the listed oast house.

## **Discussion**

The relevant material planning considerations in respect of the proposed development are as follows:

- Principle of development on the proposed site, located outside the defined built-up area boundary for Faversham
- Implications for the vitality and viability of Faversham town centre
- Implications for visual amenity, landscape quality, including for the Kent Downs AONB, and character and appearance of Faversham Conservation Area
- Implications for residential amenity
- Highway safety and convenience impacts
- Implications for the supply of best and most versatile agricultural land

- Sustainable design and construction
- Gypsy and Traveller pitch provision
- Affordable housing and developer contributions
- Drainage
- Ecology
- Air Quality
- Archaeology

### *Principle*

Members will appreciate that this application needs to be considered against not only the saved policies in the adopted Local Plan, but also the relevant policies in the emerging Local Plan (namely Bearing Fruits 2031) and the planning policy in the National Planning Policy Framework (NPPF). Having done this, consideration will also need to be given to the various other material planning considerations.

While it is important to stress that the introduction of the NPPF in 2012 has resulted in a quite radical change to the way in which many elements of the planning system operate, it should be kept in mind – and the NPPF acknowledges this – that it remains the case that planning decisions should be taken in accordance with Section 38(6) of the Planning and Compulsory Act 2004, which requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

This suggests significant weight should be given to the adopted Local Plan and, in particular, its spatial strategy represented by Policies TG1, FAV1 and SH1, together with Policy E6. The need for and scale and location of growth proposed here would be strongly contrary to these policies.

The application of these policies would suggest that the application should be resisted as a matter of principle.

The introduction of the NPPF, however, requires among other things, that particular consideration needs to be given in the assessment of planning applications to the existence or otherwise of a supply of deliverable sites to meet in full the objectively-assessed five-year requirement for housing (see Paragraph 47, which I quote from above) in each local authority area.

As noted in the ‘Description of Proposal’ above, the applicant argues that the Council does not have deliverable sites sufficient to deliver the five-year supply of housing, and the Council accepts that this is the case. Furthermore, the Council’s adopted and emerging housing targets are at considerable variance (i.e. lower) to its objectively assessed need as required by paragraph 47 of the NPPF. Paragraph 49 says that the relevant policies for the supply of housing should not be considered up to date if the local authority cannot demonstrate a five-year supply of deliverable housing site

The argument put forward by CPRE Protect Kent that the district should be treated as comprising two separate planning areas for the purpose of housing delivery is

acknowledged. This is because it is the failure of the delivery of housing numbers in the growth area part of the Borough and not of those in the Faversham area that has been the cause of the housing land supply shortfall.

Paragraph 14 of the NPPF says that where the development plan is out-of-date the local planning authority must grant permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole.

The weight to be given to the emerging plan which gives consideration to a number of potential land allocations on the periphery of Faversham in order to meet the acknowledged need for significant numbers of new dwellings - and additional employment development in order to provide a proper balance of uses – and this process included the land the subject of the current application. Ultimately, the Council has resolved – as noted above - that land should be allocated for new housing development on land east of Love Lane, land known as Oare Gravel Works and land at the Western Link, and not on the current application site at Perry Court Farm. The first two are now subject to current planning applications (references SW/14/0045 and SW/14/0257 respectively) for a mix of housing (a total of just under 600 units), employment, community uses and other development. Land at the Western Link is not yet subject to a planning application, but Members will note that Bearing Fruits 2031 envisages the construction of ‘*a minimum of 223 dwellings*’ there.

Although Bearing Fruits is at a relatively early stage in the statutory process, it is clear that the Council is making significant progress towards the adoption of a new Local Plan and that this emerging plan makes significant provision for the delivery of a mix of new development (including substantial housing land allocation) at Faversham.

In conclusion when considering the test in Paragraph 14 of the NPPF, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole and all other material considerations.

In any case, and noting the comments of English Heritage and others, I am concerned that the proposed development would not be sustainable, either in terms of a general requirement to balance economic, environmental or social planning considerations, having regard to the strategy of the Local Plan, or with regard to the inevitably substantial effect on the existing compact morphology of Faversham, which has expanded outwards from its original Creekside heart, but remains tight-knit and pedestrian friendly in scale with the vast majority of the development to the north of the A2.

Although mindful of the potential fillip for the local economy that could result from the development - notably but not exclusively in respect of job creation during both the construction and the operational phases of the non-residential elements and notwithstanding some scepticism as to the likelihood of the employment coming forward at the application site of the scale and type envisaged, I consider that there is not an over-riding need for the employment development proposed (especially as

the 'land east of Love Lane' scheme envisages a significant amount of employment development), and consequently that the development is unacceptable as a matter of principle, contrary to both the adopted and the emerging Local Plans and to the requirements of the NPPF, notably in terms of sustainable development (Paragraph 14 and 197).

Members will have noted that CPRE Protect Kent are concerned, among other things, that this application may be a cynical attempt to pre-empt the emerging Local Plan, which sets out a strategic approach to the allocation of land in the Faversham area and indeed across the Borough as a whole. With this in mind, the possibility of refusing the application on grounds that it is premature have been contemplated by my colleagues and I, and legal advice has been sought on this point. I am sympathetic to the view that this application is an attempt to circumvent the Local Plan process, but whilst the proposals are premature in the sense that they are at best unhelpful, there are, in general, limited circumstances where this would be justifiable, in this case to refuse on this basis would not be reasonable, because the emerging Local Plan, 'Bearing Fruits 2013' is at an early stage, having not been submitted for scrutiny by a Planning Inspector.

#### *Vitality and viability of Faversham*

As explained above, the application is accompanied by an Impact Assessment, which evaluates the potential implications of the 11,875 square metres of office floor space that is proposed. As also mentioned above, the report concludes that because Faversham does not currently have a significant amount of office floor space the introduction of the space now proposed will not result in the creation of new office campus in competition with an existing one in the town centre. As such, the introduction of the new office space is not expected to significantly undermine town centre vitality and viability.

The Impact Assessment has been reviewed, among others, by Economic Development colleague and whilst the above deficiencies and uncertainties in the applicant's evidence cast doubt on the need for the development, unless Members wish this matter to be pursued further, due to these same deficiencies, there is not currently the evidence to support a reason for refusal on harm arising from the office development on town centre office uses.

#### *Implications for visual amenity and landscape quality, including for the Kent Downs AONB, and for Faversham Conservation Area*

Members will appreciate that this application is informed by consideration of the context in terms of landscape (of the site itself and its setting) and the built environment, notably the listed buildings in the vicinity (all of which are outside the site, though one of them is located quite close to it) and the Faversham Conservation Area. The Design and Access Statement and other supporting documents deal with this, and set out the applicant's proposed response to them, including mitigation measures.

The work that has been undertaken by the applicant in this regard is acknowledged. However, although it may be possible to avoid some of the adverse landscape and

visual impacts that might otherwise result from the amount and type of development proposed, through good design, the careful use of landscaping planting (including the retention of most of the existing trees) and well sited open space, the introduction of the substantial amount of built development proposed to this rural, undeveloped site - which is sensitively located close to a listed building, a Conservation Area and designated landscape areas to the south of the M2 – will inevitably detract from the intrinsic character and beauty of the countryside, and be harmful to the landscape and the rural approaches to Faversham in this sensitive location.

Having carefully considered this issue in conjunction with specialist colleagues and English Heritage, it is considered that significant harm would result and this is reflected in the wording of the first reason for refusal.

#### *Residential amenity*

I am mindful of the concerns expressed by third parties and the comments of the Head of Service Delivery in this regard. The notable relevant concern of both being the potential noise implications, both during the construction and once the development has been constructed.

The concerns of the latter could be addressed through the imposition of planning conditions in the event that planning permission were to be granted. In respect, for example, of the specification of the proposed bund along part of the southern site boundary, other mitigation such as acoustic fencing and specifying a minimum distance between dwellings and noise sources such as the adjacent motorway.

As the application is in outline, with all matters other than access reserved for future consideration, it is not appropriate to scrutinise the layout in detail in terms of potential over-looking or loss of light / outlook, either between proposed dwellings and existing ones or adverse impacts between proposed dwellings. I am firmly of the view though that the amount and mix of development proposed is not excessive for a site of this size in terms of being able to arrange the development in a manner that ensures that significant adverse impacts are avoided. As such, potential implications for residential do not in my view amount to a reason for refusal.

#### *Highway Implications – strategic and local*

With regard to the strategic network (in this case, the M2 and the A2 east of Brenley Corner), Members will have noted above that in the light of additional information, which deals specifically with the implications of this development for the Brenley Corner junction (M2, Junction 7, with the A2 and the A299 among other roads), the Highways Agency raise no objection. With this in mind, I do not recommend that the application is refused on grounds relating to implications for the strategic road network.

With regard to the local highway network, Members will note that Kent Highways Services have identified the need for various highway improvements as a result of the proposed development above and beyond those that the applicant is proposing to undertake if the development goes ahead.

Members will have noted my summary of the comments of KHS above. Although they identify four areas where minor mitigation work would be desirable in addition to the mitigation that the applicant is offering to undertake, they have confirmed that the absence of these works does not amount to a reason for the application to be refused.

### *Agricultural Land implications*

This issue is considered at Chapter 15 of the ES and elsewhere in the submitted documents. In response, and as noted above, the Council's Agricultural Consultant notes that a total of 27.2 hectares of best and most versatile land would be lost from farming as a result of this development. He also highlights the potential conflict with Paragraph 112 of the NPPF, which I quote from in the 'Policies' section above.

In response to these comments, the applicant has, as also noted above, provided additional information, which concludes that the Council "...does not have to demonstrate that there are sufficient arguments in the overall balance to override... [Paragraph 112 as suggested by our consultant]... *There is no ready supply of lower quality agricultural land ... [that is not BMV]... that could be used to accommodate the development needs of Faversham.*" The statement goes on to conclude that in this instance the use of BMV is consistent with national policy and also to note that unlike some other land – to the east and west of the town centre – the development of this land would be consistent with national policy because it includes land that is at the lower end of the BMV range, by virtue of including some land that is Grade 2 and some that is sub-grade 3a.

In response, the Council's Agricultural Consultant notes that the applicant has not considered the use of land that is not BMV, and reiterates that it is for the Council to judge whether the conflict with Paragraph 112 of the NPPF is outweighed by other planning considerations.

In conclusion on this issue, whilst the Council accept that some loss of BMV farmland is inevitable when it comes to accommodating the future growth of Faversham, the loss of such land as a result of the proposed development is considered to be unnecessary given that – as explained above – the application falls outside the planned development of Faversham as envisaged under the emerging Local Plan, Bearing Fruits 2031. The Council also argue that this loss of BMV land would be in addition to that resulting from those developments coming forward elsewhere in the Faversham area, which are broadly in accordance with Bearing Fruits 2031. As such, the loss of BMV land is considered to amount to a further ground for the refusal of this application.

### *Sustainable design and construction*

Members will have noted that the application is supported by a Renewable Energy Assessment and a Sustainability Statement, and that the Climate Change Officer is broadly of the view that this application is satisfactory in this regard.

I note that the issue is also dealt with in the Planning Statement, at paragraphs 10.38 to 10.48: "...the development will be capable of achieving Code for Sustainable

*Homes Level 4...and capable of achieving BREEAM standard Very Good.*" I also note that a number of options are presented to show how "10% renewable energy" could be delivered on site.

As such, I conclude that there would be no basis for refusing this application on grounds relating to sustainable design and construction, because it would be in line with the NPPF and Policy DM20 of 'Bearing Fruits 2031'.

#### *Gypsy and Traveller pitch provision*

As Members will have noted in the 'Policies' section above, Policy DM10 of the emerging Local Plan (Bearing Fruits 2013, August 2013) requires among other things that for developments of 150 dwellings and above "...*unless a commuted sum has been agreed with the Council, 1% of the total number of dwellings proposed shall be serviced and made available to Gypsies and Travellers as pitches...*"

Members will have noted in the 'Description of Proposal' section above, that the applicant is willing to make a financial contribution in lieu of on-site pitch provision, provided that the contribution is compliant with the requirements of the CIL Regulations (which I set out above in the section dealing with the NPPF) in respect of such contributions.

Legal advice is being sought on the approach set out currently in draft Policy DM10 and the Local Development Framework Panel will be asked to further consider its approach at their June meeting

As also explained above, the applicant considers that Government policy in the NPPF and the dedicated planning guidance in respect of provision for gypsies and travellers does not support the Council's requirement for the on-site provision of three gypsy and traveller pitches. A compelling justification for setting aside the requirement for this on-site provision as set out in Policy DM10 has not been provided, and as such I consider that it is not appropriate for the Council to contemplate the provision of a financial contribution in lieu. Furthermore, the absence of a proposal for on-site provision amounts, in my view, to a reason for the refusal of the application.

#### *Developer Contributions and Affordable Housing*

As explained above, Paragraphs 10.51 to 10.58, on Pages 69 and 70, of the Planning Statement deal with these and, among other things, set out a list of items (Paragraph 10.55) for which the applicant anticipates that contributions will be sought by the Council.

With the exception of the Council's 5% monitoring charge and the provision of wheelie bins for each of the dwellings, this list covers all of the items for which the Council would typically seek a contribution.

The applicant has also, as noted above, given a commitment to provide 35% of the dwellings as affordable units. This would accord with the emerging requirement in Bearing Fruits 2031 for the Faversham planning area.



As noted above, the Greenspaces Manager advises a commuted sum will be required to cover maintenance costs for the ten-year period following adoption of open space form part of the development.

Although the applicant has not given an undertaking to pay the particular contributions sought by Kent County Council, which I set out above, or to pay the monitoring charge and the cost of wheelie bins as mentioned above, in the absence of a fundamental issue in respect of developer contributions, I consider that this issue does not amount to a reason for refusal.

### *Drainage*

The submitted documents (including the Flood Risk Assessment) suggest that foul and surface water drainage for the development can be accommodated without particular difficulty. Members will also note the comments of the Environment Agency and Southern Water Services. These suggest that surface water could be dealt with by way of a sustainable system incorporating SUDS principles. With regard to foul drainage, although SWS suggest that there is a lack of capacity in the existing network, they do not object to the proposed development but instead suggest the imposition of a planning condition such that the issue can be resolved between them and the developer before any development is commenced.

Although I note the concerns expressed by third parties in respect of drainage, I conclude that this issue does not amount to a reason for refusal.

### *Ecology*

As mentioned above, a chapter of the Environmental Statement is devoted to Ecology and Nature Conservation and the supporting appendices also deal with these issues and include surveys for bats, reptiles and birds, and a screening report addressing the possible implications of the development for the SPA / SSSI / Ramsar site.

Members will note the comments of Natural England and KCC Ecology, which I have summarised above, and that neither body raises objection to the application, though two sets of additional information (to clarify aspects of the bird surveys, the results of the reptile and bat surveys, and in respect of potential implications - notably from additional recreational activity / visits - for the Swale Special Protection Area) were provided by the applicant in order to address various queries from the latter.

In the light of the above, I am confident that the remaining points could be dealt with by planning conditions, rather than amounting to a reason(s) for the application to be refused.

Finally, and as noted above, because the development would be within two kilometres of the European-designated Swale SPA it is necessary under the Conservation of Habitats and Species Regulations (2010) to screen the development to establish whether the application needs to be subject to an Appropriate Assessment. As noted above, additional information (further to the detailed report at

Appendix 7.6 of the ES) was provided to clarify the potential implications of the development for the SPA (notably in terms of a potential increase in recreational uses), and KCC Ecology subsequently expressed their satisfaction with this work.

In the light of the comments of Natural England and KCC Ecology and noting the additional information provided by the applicant in respect of the implications for the SPA, I conclude that the proposed development – either alone or in combination with the other development proposed in the vicinity of Faversham (and which I introduce elsewhere in this report) will not lead to any significant effect on the integrity of The Swale SPA / Ramsar site. As such, an Appropriate Assessment does not need to be undertaken in this instance.

### *Air Quality*

As noted above, Chapter Nine of the Environmental Statement deals with air quality and, among other things, addresses the issue of potential implications of the development for the Ospringe AQMA (which covers Ospringe Street, a section of the A2). The assessment concludes, at Paragraphs 9.74 and 9.75, that:

*“...with traffic generated by the development, there would again be no significant change to the air quality adjacent to the A2 as the increase due to traffic generated by the development would be less than 0.3 µg/m<sup>3</sup> on this basis, the effects of the development on all existing receptors would be imperceptible / negligible and would have no significant bearing on SBC’s actions to minimise pollution under its air quality action plan.”*

In addition, Members will have noted the comments of the Head of Service Delivery above in respect of the possible air quality implications of the development and, in particular, his view that although this development could lead to a deterioration of air quality in the Ospringe AQMA this would not be sufficient to justify the refusal of the planning application.

### *Archaeology*

The KCC Archaeologist raises no objection and considers that, if permission were to be granted, archaeological issues could be covered by a suitably-worded planning condition as discussed above. Accordingly, this issue does not amount to a reason for the refusal of the application.

## **Summary and Recommendation**

Planning permission is sought in outline, with all matters other than access reserved for future consideration, for the development of up to 315 dwellings and a range of commercial development together with open space, landscaping and ancillary infrastructure on approximately 30 hectares of land at Perry Court, Faversham.

I have carefully considered whether the principle of the proposed development is acceptable. In doing so, I have had regard, among other things, to the relevant paragraphs of the NPPF, to the adopted Local Plan and the emerging ‘Bearing Fruits 2031’.

I have also evaluated the following material considerations: implications for: (1) the vitality and viability of Faversham town centre, (2) visual amenity, landscape quality, including for the Kent Downs AONB, and character and appearance of Faversham Conservation Area, (3) residential amenity, (4) highway safety and convenience, (5) implications for the supply of best and most versatile agricultural land, (6) sustainable design and construction, (7) gypsy and Traveller pitch provision, (8) affordable housing and developer contributions, (9) drainage, (10) ecology, (11) air quality, and (12) archaeology.

Where I have concluded that harm has arisen as a result of these proposals, a number are made more significant by the cumulative impacts that would result not only for the release of further land to that already proposed for allocation by the draft Local Plan, but also the precedent that would be set for the release of further land, particularly on the south side of the A2. There is an inevitable risk that in the event of an appeal an Inspector may view the shortfall of housing land (and jobs) a significant matter in favour of a grant of planning permission, however, I believe that there is a case to answer that can be defended to the effect that the scale of harm would be significantly and demonstrably greater than any benefits arising from the scheme.

I conclude that the development is contrary to the NPPF, the adopted Local Plan and to Bearing Fruits 2031, and I recommend that Members refuse planning permission for the reasons as set out above.

### **Background papers**

- (1) Application papers and correspondence for SW/14/0015
- (2) Application papers and correspondence for SW/11/0959
- (3) Application papers and correspondence for SW/91/0807
- (4) Application papers and correspondence for SW/13/0670
- (5) Application papers and correspondence for SW/13/1567
- (6) Application papers and correspondence for SW/14/0045
- (7) Application papers and correspondence for SW/14/0257

Report of the Head of Planning

**Part 4**

Swale Borough Council’s own development; observation on County Council’s development; observation of development by Statutory Undertakers and by Government Departments; and recommendations to the County Council on ‘County Matter’ applications.

<b>4.1</b>	<b>SW/14/0394 (Case 02114)</b>	<b>Queenborough</b>
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**Location :** Queenborough Primary School & Nursery, Edward Road, Queenborough, Sheerness, Kent, ME11 5DE

**Proposal :** The proposed development includes a 4 classroom extension, new hall link corridor and additional toilets and TA room. The external play space will be altered and increased to compensate for the new buildings.

**Applicant/Agent :** Governing Bodies of Queenborough Primary School, C/o KCC Planning Applications Group, First Floor, Invicta House, County Hall, Maidstone, Kent, ME14 1XX

**Application Valid :** 26 March 2014

**Target :** 24 April 2014

**NO OBJECTION BE RAISED**

**SUBJECT TO:**

The County Council imposing conditions relating to the following :

(1)materials to be as set out in the approved plans, (2) prevention of mud on the highway,(3) provision of contractor loading, off loading, turning and parking during construction, and (4)provision of an updated school travel plan and parking strategy

**Description of Proposal**

Swale Borough Council has been consulted on an application made to Kent County Council for an extension which would provide 4 classrooms, a new hall link corridor, additional toilets and a TA room at Queenborough Primary School and Nursery, Edward Road, Queenborough.

The proposal involves the construction of two detached rectangular shaped buildings. The first of which, the taller of the two would be approximately 14.5 metres in length and approximately 8 metres in width, with a 8.5 metre wide. A 2.2 metre long corridor that would be attached to the second larger rectangular shaped building, 20m in width, 18.5m in length. The height of the taller rectangular building nearest the existing school, facing towards open land to the rear, is pitched roofed, 5.8 metres to the eaves height and 9m to the roof ridge 6.3. The link corridor would also be flat roofed and approximately 3.2m at the highest point. The larger rectangular building is pitched roofed in design and would measure 3m to the eaves height and 5m to the roof ridge.

Materials are to match the existing school building.

The buildings will be sited to the north side of the existing building, towards the front of the existing playground. The proposed building is sited 38m metres from the boundary with houses on Edward Road to the south west. There is open land to the east, south and west sides.

An extension of the playground area is proposed to the far north of the site, measuring approximately 720m<sup>2</sup>, and to the north east of the application site measuring approximately 268m<sup>2</sup> of hard standing with landscaped area surrounding.

The application is accompanied by a Transport Assessment.

### **Relevant Site History and Description**

Queenborough Primary School & Nursery is located within the designated countryside of Queenborough. There is open land to the north and west of the site, an area of open space to the east and dwellings to the south and east beyond the area of open space.

There is a grassed area surrounding the playground as existing, some of which is to be removed as part of the proposed playground extension.

The site has extensive planning history, none of which is of particular relevance

### **Views of Consultees**

The Environment Agency has no objection.

Kent Highway Services do not raise objection, subject to conditions relating to prevention of mud on the highway, provision of contractor loading, off loading, turning and parking during construction, and provision of an updated school travel plan and parking strategy, and comment as follows:

*I have reviewed the Transport Assessment (TA) that has been submitted with the application, and can confirm that it complies with the methodology agreed during pre-application discussions that the Highway Authority had with the Transport Consultant at the beginning of the year. A meeting was also held on site to reinforce the*

*observations of traffic and parking patterns that occur in respect of the operation of the school.*

*The TA demonstrates that the development would be likely to attract an extra 9 vehicle trips in each of the AM and PM peak hours for school traffic, as a consequence of the additional 30 pupils that the school would be able to accommodate by this proposal. This is a reasonable assumption based on the current travel patterns that take place, and allowing for the proportion of car sharing with siblings and friends that is expected.*

*I do not think that the impact that these additional vehicles will have would be considered significant, given the level of vehicular activity and parking that is already associated with the school traffic. The roads immediately next to the school, Edward Road and Castlemere Avenue, are already at saturation point for parking, and the current demand has spread beyond these roads to include parts of Main Road and Queenborough Hall car park. There is certainly more capacity around these locations to absorb more parking demand without having much of a noticeable impact, particularly in Borough Road, considering that only 9 additional vehicles are forecast.*

### **Other Representations**

Six objections were received, summarised as follows:

- Edward Road is very heavily parked during pickup and drop off times. Residents are virtually trapped in their properties or unable to access their driveways;
- Edward Road would be virtually impassable for emergency vehicles;
- A new road to the school should be provided prior to any expansion;
- Will the work be done during holiday times?
- Castlemere Avenue and Edward Road are not capable of taking any more traffic

No other representations have been received.

### **Policies**

#### **Swale Borough Local Plan 2008**

E1 (General Development Criteria)

E6 (The Countryside)

E7 (Separation of Settlements)

E9 (Quality and Character of Boroughs Landscape)

E13 (Coastal Zone & Undeveloped Coast)

E19 (General design criteria)

### **Discussion**

Whilst the site lies in the countryside and in an important local countryside gap, the provision of community facilities such as this are considered acceptable in principle in such areas – they are specifically set out as exceptions to these policies of rural restraint. I consider the proposed development to be acceptable in principle.

The key issues here are the impact of the proposed extension on the existing school and on the surrounding area.

In my opinion the extension would not have a detrimental impact on the existing school building in terms of the proposed scale, massing and design. The extensions have been well designed to appear in keeping with the existing character of the building and as such do not appear obtrusive.

I do not consider there to be any significant impact on residential amenity due to the separation distance between the proposed development and the nearest dwelling.

I have no objection to the playground being extended to compensate for the proposed buildings. I do not consider that the increased size of the playground would have any significant effect on amenity.

I am in no doubt that Edward Road and Castlemere Avenue are heavily parked at busy times in the morning and afternoons. Members will note that Kent Highway Services raise no objection to the development. Whilst the parking arrangements at this school are clearly unsatisfactory, this proposal would not make the existing situation any worse. As such, on balance I concur with the comments of Kent Highway Services. I do not consider that this proposed development would materially harm highway safety and convenience.

### **Recommendation**

I do not consider that the proposed extension would give rise to any serious harm to visual or residential amenity, or to highway safety and convenience.

I therefore recommend that no objection is raised.

### **List of Background Documents**

1. Application papers and correspondence for SW/14/0394

Report of the Head of Planning

**PART 5**

Decisions by County Council and Secretary of State, report for information

**5.1 - SW/13/0685 – Redevelopment of site formerly used for domestic garages and external storage to provide 3 no. 2 bed houses and 2 no. 3 bed houses at Land between 8 & 18 Oak Road, Murston**

**APPEAL ALLOWED**

The Inspector commented as follows:

Decision

1. The appeal is allowed and planning permission is granted for redevelopment of site formerly used for domestic garages and external storage to provide 3 no. 2-bed houses and 2 no. 3-bed houses at land between 8 and 18 Oak Road, Murston, Sittingbourne ME10 3PD in accordance with the terms of the application, Ref SW/13/0685 dated 30 May 2013 and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Since the appeal was submitted the government's planning guidance has been issued and the Appellant and the Council were therefore invited to submit representations if they considered that the publication of the guidance affected their submissions. Neither party indicated that it wished to submit further representations in this regard.

Main Issues

3. The main issues in this appeal are:
  - 1) the effect of the proposal on the character and appearance of the local area;
  - 2) the effect of the proposal on the living conditions of the neighbouring residents at Nos 8 and 18 Oak Road, with particular regard to noise and disturbance, and
  - 3) the effect of the parking arrangements on highway safety.

Reasons



#### *Issue a) Character and appearance*

4. The appeal site relates to a long and narrow piece of vacant land within a predominantly residential area. Although the land has now been cleared and fenced, the information before me, including aerial photographs, indicates that it was previously occupied by a number of garages and outbuildings, with some open storage with access taken along the boundary with No 8 Oak Road. The surrounding area is mixed in character in terms of the age and design of the properties, and there is a large new residential development to the immediate east of the site. Whilst the aerial photographs show the very long rear gardens to the properties on the east side of Oak Road north of the appeal site, these extremely generous garden lengths, by modern standards, are not generally apparent in the street scene. Furthermore, they relate solely to some of the houses on the east side of the road rather than to the wider locality. The general character and appearance of the local area is of a wide mix of generally well-spaced dwellings, with some set further back than others from the street frontage.
5. The proposed development would introduce a pair of semi-detached properties fronting Oak Road with a shared drive to the south leading to parking spaces to the rear and beyond a further terrace of three houses. The Council raises no issues with the pair of properties fronting Oak Road and I agree that their siting scale and design would be an appropriate addition to the street scene.
6. I accept that the development at the rear would not follow the general pattern of frontage development found along Oak Road. However, I am not persuaded that this would, in itself, harm the character and appearance of the local area given the broad mix of dwelling types and layout. The length of the site would enable the layout of the development to be well spaced so that there would be very generous spacing between the frontage and the rear development, and each property would have the benefit of good sized gardens, albeit smaller than the very long gardens enjoyed by some of the surrounding properties. This generous spacing would in my view ensure that the proposal would not introduce a cramped or urban form of development, but one which would promote an efficient use of this previously developed land and which would be generally in keeping with the character of well-spaced dwellings prevalent in the locality. The smaller scale of the rear terrace and its considerable distance away from the site frontage would also ensure that it would not be overbearing within the street scene and would assist in integrating it into the mixed residential character of the local area.
7. I conclude that the proposed development would not harm but would respect the character and appearance of the local area. There would be no conflict with Policies E1 and E19 of the adopted Swale Borough Local Plan 2008 (Local Plan) as well as the National Planning Policy Framework (Framework), all of which amongst other things seek a high quality of design that would respect the local context.

#### *Issue b) Living Conditions*

8. The proposed layout would necessitate cars to serve most of the properties using the shared drive which would run along the side of the boundary with No 8 and using the parking spaces set out at the rear of Plots 1 and 2.
9. The Appellants have submitted evidence on likely trip rates which suggest that these would be between 1 and 2 traffic movements an hour over the period of 0700 to 2200, potentially increasing to 3 in the peak hour of 1800 to 1900. The Council has not provided any alternative evidence or challenged the information provided and I have no reason to dispute it either in terms of the methodology or the results. There is no evidence for the night time period but I agree with the Appellants that it would be probable that traffic movements would be no greater than during the day and probably less.
10. There are no flank windows in the side of No 8 but windows in the rear elevation facing over the back garden. Along the long side boundary with the appeal site and close to the house, there are a number of outbuildings including a caravan. There is an existing fence along the appeal site boundary.
11. I accept that the neighbours may be aware of some of the comings and goings within the development at the appeal site, particularly from within their rear garden. However, given the anticipated low level of traffic movements, combined with the distance between the parking area and the rear of No 8 and the orientation of the spaces, as well as the siting of the windows in No 8, I am not persuaded that the amount of movements would materially harm the living conditions of these immediate neighbours, through increased noise and disturbance, including through car headlights.
12. The Council also raised in its reason for refusal a similar impact on the living conditions of the residents at No 18 although its consideration of this issue at both the application and the appeal stage has focussed on the effect on the neighbours at No 8. The neighbours at No 18 also have no windows in their flank elevation facing towards the appeal site. The car parking spaces at the rear of Plots 1 and 2 would be along the side of their rear garden, but set in from the boundary. In respect of No 18 I am also satisfied that there would be no material harm to their living conditions through noise and disturbance taking into account the anticipated number of traffic movements and the relationship of the spaces and access drive in relation to that property.
13. I am therefore satisfied that the proposed development would not materially harm the living conditions of the adjoining neighbours with particular regard to noise and disturbance. There would be no conflict with Policy E1 of the Local Plan in this regard as well as the Core Principle in the Framework which states that planning should *always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings*.
14. In view of my conclusions on this issue, I do not consider that specific conditions are required in respect of landscaping and boundary treatments to

protect the living conditions of the immediate neighbours. Nonetheless, in working up of the final details of these matters including hard surfacing treatments there would be the opportunity to ensure that further consideration is given to the living conditions of these immediate neighbours, alongside protecting the character and appearance of the local area.

15. Local residents have also raised concerns about potential overlooking and loss of privacy as a result of the proposed development at the rear. However, given the proposed siting of the new dwellings at the rear and the distances between this terrace and the neighbouring properties and their rear gardens, I am satisfied that there would be no material harm to the neighbours' living conditions in this regard. The Council has also raised no issue in this respect.

*Issue c) Parking arrangements and highway safety*

16. The proposed scheme would provide an appropriate number of parking spaces to meet current standards. However, the Council has objected to the siting of the parking spaces for Plot 2 which it considers would be too remote from the house and encourage on-street parking. I have noted the Appellant's proposal that there would be rear access to the plot to minimise the distances and agree that this issue could be satisfactorily addressed by condition. Rear access to the plot from the proposed parking spaces would in my view improve the accessibility of these spaces in relation to the property they would serve.
17. Even if the development were to lead to some additional parking on street, there is no evidence before me to indicate that this would lead to harm to highway safety. The County Highway Engineer has indicated that parking onstreet is at a premium but this has not been quantified and there is no indication that further on-street parking would lead to a highway safety issue.

Indeed this is not an issue that was raised by the County Highway Engineer in his consultation response on the application. Furthermore, I recognise that the development would allow, if considered appropriate, for the reinstatement of a kerb line along part of its frontage length which would increase the opportunity for on-street parking compared to the former use of the site for garages.

18. I do not therefore consider that the proposed parking arrangement would lead to issues of highway safety. In its reason for refusal the Council has also referred to impact on amenity but this has not been expanded. Given the potential impact on parking arrangements for one plot balanced against the potential to increase on-street parking through the reinstatement of the kerb, I also do not consider that there would be any impact on issues of amenity. There would therefore be no conflict with the Framework or Policies E1 or T3 of the Local Plan in this regard.
19. There has been some discussion regarding the tandem parking arrangements for Plot 1 but this was not raised as an objection by the County Highway Engineer or a reason for refusal. I have no reason to take a different view on the basis of the evidence before me and the parking arrangements in the locality.

## Other Considerations and Conditions

20. Both the Appellant have referred to a number of other appeal cases where similar issues have been raised, including one in 2013 in the same Borough at Teynham (APP/V2255/A/12/2180493) which was allowed and one in Guildford in 2009 which was refused (APP/Y3625/A/08/2080035). Whilst I have taken these decisions into account, each proposal must be considered on its individual merits, taking into account the scale and form of the proposed development, the character of the local area and the detailed relationship between the proposal and the existing adjoining dwellings. These appeal decisions do not persuade me to an alternative view on the conclusions I have drawn on these issues in the circumstances of this particular case.
21. I have noted that the Council does not have a five year land supply and whilst I have not been provided with any detailed information, there does not appear to be any disagreement between the Council and the Appellant on this matter. I agree with the Council that this does not mean that otherwise unacceptable development should be permitted. However, in this instance I am satisfied that the development would be a sustainable and efficient use of previously developed land which would respect the character and appearance of the local area, as well as the living conditions of the immediate neighbours and without harm to issues of highway safety. The contribution, albeit small, that the development would make to the overall housing supply would add further weight in favour of the proposal.
22. In terms of conditions, I agree with the Council that conditions are reasonable and necessary to seek details of materials and landscaping for the development in protecting the character and appearance of the local area as well as the living conditions of neighbours. Given the location of the site within a residential area, I also agree that conditions are reasonable and necessary to protect the living conditions of neighbours in respect of construction issues, including hours of construction, construction parking and dust suppression and have proposed the submission of a construction method statement to address these issues. A condition relating to provision and subsequent retention of the access arrangements and parking is also reasonable and necessary in terms of highway considerations. Both the Environment Agency and the Council's Environmental Protection Team have requested the imposition of conditions relating to contamination and I agree that this should be imposed in the interests of protecting the future residents of the site. Drainage details are required to prevent the pollution of water supplies.
23. The Council has requested that the development should achieve at least a Level 3 rating under The Code for Sustainable Homes. However, I have not been referred by the Council to any policy basis for this requirement. Whilst I support the Council's objectives in this regard I do not consider that it is a condition which can be reasonably imposed without policy support. I have also been provided with no explanation behind the proposed condition to require all telephone/electrical services to be supplied underground and consider that this is a matter best agreed with the relevant statutory services.

The Council has requested that permitted development rights are removed relating to means of enclosure for front gardens in the interests of visual and residential amenity.

However, the surrounding houses have a wide variety of front boundary treatments and I do not consider that it would be reasonable or necessary to remove permitted development rights in this respect. The Council has sought through a condition the provision of visibility splays but the dimensions referenced would appear to relate to vehicular splays whereas the Highway Engineer specifically referred to pedestrian visibility splays. In the interests of pedestrian safety, I have included a condition but referenced pedestrian visibility splays.

24. I have imposed a condition to require the provision of a rear entrance to the dwelling on Plot 2 to ensure direct access is provided to that dwelling as referenced under my issue c).
25. For the reasons given above and having regard to all other matters raised, including in letters of representation, I conclude that this appeal should be allowed.

Schedule of Conditions (1 – 14 inclusive):

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The means of access, car spaces and car port to be provided, as shown on Plan 8274 020, shall be provided prior to first occupation of the dwellings hereby permitted and shall be kept available for the manoeuvring and parking of motor vehicles at all times. The car spaces and car port shall be used solely for the benefit of the occupants of the dwellings of which they form part and their visitors and for no other purpose and permanently retained as such thereafter.
- 3) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - the parking of vehicles of site operatives and visitors
  - loading and unloading of plant and materials
  - storage of plant and materials used in constructing the development
  - wheel washing facilities
  - measures to control the emission of dust and dirt during construction.
- 4) Construction works shall not take place outside 0730 hours to 1900 hours Mondays to Fridays and 0730 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 5) No burning of waste or refuse shall take place on site during construction works.

- 6) No development shall take place until details of the method of disposal of foul and surface waters have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of any of the dwellings hereby permitted.
- 7) No development shall take place until a contaminated land assessment (and associated remediation strategy if required) has been submitted to and approved in writing by the local planning authority. The assessment shall comprise:
  - i. a desk study and conceptual model based on the historical uses of the site and professional opinion as to whether further investigative works are required. A site investigation strategy based on the results of the desk study shall be submitted to and approved in writing by the local planning authority prior to any intrusive investigations commencing on site.
  - ii. An investigation, including relevant soil, soil gas, surface and groundwater sampling shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
  - iii. A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessments to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed residential end use of the site and surrounding environment including any controlled waters.
- 8) Before any part or agreed phase of the development is occupied, all remediation works identified in the approved contaminated land assessment shall be carried out in full or as otherwise agreed in writing by the local planning authority. If during the construction works contamination is encountered which has not previously been identified, then that additional contamination shall be fully assessed and an appropriate remediation scheme shall be submitted and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved scheme.
- 9) Upon completion of the works identified in the contaminated land assessment, and before any part of agreed phase of the development is occupied, a closure report shall be submitted to and approved in writing by the local planning authority. The report shall include details of how the remediation works have been undertaken together with appropriate certificates to demonstrate that the works have been completed in accordance with the approved methodology. Details of any post remediation sampling and analysis to demonstrate that the site has achieved the required clean up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- 10) No development shall take place until full details of both hard and soft landscape works, including boundary treatments and means of enclosure and hard surfacing materials have been submitted to and approved in writing by

the local planning authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 11) The landscaping details as required under Condition 10 shall include provision for a gate or other means of pedestrian access in the eastern boundary of Plot 2 which shall be provided in accordance with the approved details prior to occupation of the dwelling on Plot 2 and thereafter retained.
- 12) The landscaping details as required under Condition 10 shall include details of pedestrian visibility splays in respect of the access points to the site from Oak Road, measuring 2m by 2m or as otherwise agreed with the local planning authority. The approved visibility splays shall be provided and cleared of obstruction to visibility above a height of 600mm prior to first occupation of the dwellings hereby permitted, and thereafter maintained free of obstruction at all times.
- 13) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 14) The development hereby permitted shall be carried out in accordance with the following approved plans: 4831 002A; 8274 020; 8274 021 and 8274 022.

### **Observations**

A disappointing decision .

### **Background Papers**

1. Application papers and correspondence for SW/13/0685
2. Appeal decision dated 9<sup>th</sup> April 2014 Ref: APP/V2255/A//13/2206980

## **5.2 SW/13/1459 (Case 25257) - Garage conversion, 9 Saxon Shore, Sittingbourne, Kent ME10 2UP**

### **APPEAL ALLOWED**

The inspector commented as follows:

#### **Decision**

1. The appeal is allowed and planning permission is granted for a garage conversion at 9 Saxon Shore, Sittingbourne, Kent ME10 2UP in accordance with the terms of the application, Ref SW/13/1459, dated 18 November 2013, subject to the following conditions:
  - 1) The development, hereby permitted, shall begin not later than three years from the date of this decision.
  - 2) The development, hereby permitted, shall be carried out in accordance with the following approved plans: PL 01, PL 02, PL 03, PL 04, and PL 05.
  - 3) The materials to be used in the construction of the external surfaces of the development, hereby permitted, shall match those used in the existing building.

#### **Main issue**

2. The main issue in this case is the effect on the character and appearance of the area.

#### **Reasons**

3. The property is a modern two storey house on an estate, principally consisting of detached and semi-detached dwellings in a variety of different styles and materials. The appeal proposal would involve the conversion of an existing garage to form a dining room with a new frontage replacing the existing garage door.
4. The National Planning Policy Framework (Framework) indicates that there should be a presumption in favour of sustainable development, but confirms that good design is a key aspect of sustainable development. Policies E1, E19 and E24 of the Swale Borough Local Plan 2008 (LP) similarly require development to achieve a high quality design and to reflect the positive characteristics and features of their locality, with extensions and alterations maintaining the character of the street scene. Some further guidance on preferred car parking arrangements is given in the 'Designing an Extension – A Guide for Householders' (SPG).



5. The properties on the estate exhibit a variety parking and garage arrangements, with different levels of front garden hard standing dependent on their style. The appeal property is located in a cul-de-sac and has a single width front drive to the garage. The Council indicate that the length of the drive does not meet normal standards to enable two cars to be parked on this area. However, there is only a marginal shortfall and the appellant has demonstrated that it is capable of accommodating two regular sized vehicles without encroachment onto the highway. To my mind, with two parking spaces for the dwelling retained, future pressure to reduce the existing front garden to provide extra hard standing, as put forward by the Council, would be limited. Further parking of vehicles immediately outside of the site would also be unlikely in this location, as this would be liable to lead to obstruction to the front parking area of the adjoining property at no 10 Saxon Shore.
6. The Council indicate the area is characterised by some parking to the front of dwellings, together with areas of soft landscaping. I would not disagree with this assessment but do not consider the continued parking of two cars on the front drive of the appeal property would be out of keeping within this part of the estate or that it would be visually detrimental to the street scene.
7. I conclude that the proposal would not materially harm the character and appearance of the area and as such there is no conflict with the Framework or Policies E1, E19 or E24 of the LP or the SPG.

### **Other Matters**

8. I have been referred to other sites where garages have been converted to living accommodation. However, I do not have full information of these examples and have considered this scheme solely on its individual merits, based on the specific location of the property and the particular site layout involved.

### **Conclusion**

9. For the reasons given above, I conclude that the appeal should be allowed.

### **Conditions**

10. The Council have put forward two conditions should this appeal succeed. The standard commencement condition is required. Also to ensure the infill of the garage frontage satisfactorily relates to the existing house, a condition requiring matching materials should be imposed. A condition, referring to the relevant plans, is also required for the avoidance of doubt and in the interests of proper planning.

### **Observations**

A very poor decision in respect of harm to amenity to the area. The inspector's comments are noted in terms of the 'marginal shortfall' of less than two regular sized parking spaces on the driveway.

## **Background Papers**

1. Application papers and correspondence for application no. SW/13/1459.

**5.3 ENF/13/0035 - The material change of use of the building to a mixed use for the repair and servicing of mowers and tractors and use as two self-contained flats used residentially. Land and Buildings at 'The Tractor Shed', Provender Lane, Norton, Faversham, Kent, ME13 0SL**

**ENFORCEMENT APPEAL DISMISSED**

The Inspector commented as follows.

1. I have taken into account the replies sent by the main parties in response to letters dated 19 March 2014 from the Planning Inspectorate requesting their observations on the replacement of Circular 10/97 by Planning Practice Guidance on 6 March 2014.
2. Some doubt may be cast upon the precise nature of the use set out in the allegation. This is described as a mixed use for the repair and servicing of mowers and tractors and use as two self-contained flats used residentially. However, the use for the servicing and repair of mowers and tractors had enjoyed the benefit of planning permission for several years before the two self-contained flats were formed in the roofspace.
3. To make this clear, I intend to use my powers, under section 176(1) of the 1990 Act as amended, to correct a misdescription in the allegation. This can be best achieved by referring specifically to the authorised use of 'The Tractor Shed' for the servicing and repair of mowers and tractors.
4. I prefer this to the suggested correction made in the Council's statement of 25 October 2013 and I am satisfied that this correction will not cause injustice to the appellant or the local planning authority. I reach this conclusion as both agreed that the relevant period, required to demonstrate lawfulness for the two self-contained flats, is four years before the enforcement notice was issued, rather than the ten years required, if it were a wholly unauthorised mixed use.

**The Appeal on Ground (d)**

5. The Courts have held that self-contained flats, such as the two in the roof of this property, constitute single-family dwellings for the purposes of the Town and Country Planning Act 1990 as amended. Therefore, in the ground of appeal, made under section 174(2)(d) of the amended 1990 Act, the onus is placed upon the appellant to demonstrate, on the balance of probabilities, that the use of the roofspace of 'The Tractor Shed' as two self-contained flats commenced before a period of four years before the date of issue of the enforcement notice, i.e. on or before 7 June 2009, and continued over the period up to the date that the notice was issued, under the provisions of section 171B(2) of the 1990 Act as amended.

6. According to the appellant's agent, residential occupation of the 'east' and 'west' flats, in the roof of the former tractor shed, now used on the ground floor for the servicing and repair of powered lawn mowers, commenced in 2006/2007 i.e. well before June 2009. An assured shorthold tenancy lease for the east flat, from December 2008, supports this. However, mere commencement of the use four years before the enforcement notice was issued is insufficient, in itself, to demonstrate lawfulness. It also has to be shown that the use subsisted throughout this period of four years prior to the date that the notice was issued.
7. According to a letter from the managing agents for the two units, dated 16 January 2013, the east flat was vacant for seven months between March and October 2010 i.e. a long period of vacancy post 7 June 2009. If the flat was vacant after the time of the start date of the period of four years before the issuing of the enforcement notice, and had been so for some time previous, then the local planning authority could not have taken enforcement action at a time that the unauthorised use did not subsist.
8. The situation with regards to the west flat is less clear cut. According to the agent's letter the premises were let to a single tenant between May 2009 and October 2010. It is not transparent from the letter when the current tenant moved in, so there may have been a significant vacancy between the present occupier and his predecessor.
9. On the other hand, there is the evidence contained in the e-mail dated 18 October 2013 from the Chairman of the Norton Buckland & Stone Parish Council. This states that some three years previously (i.e. in 2010) the Parish Council received a complaint about tenants living unlawfully in the roof space of 'The Tractor Shed'. It is said that, following discussions between the Parish Council Chairman and the appellant, the tenants would be relocated. This was said to have been done and that for a while, the residential accommodation in both flats had all the appearance of being empty.
10. Later on both flats were relet. This period conforms to the long period of vacancy in the east flat described in paragraph 7 above. It does not coincide with the evidence in the managing agent's letter regarding the west flat. However, that inconsistency is not, in my judgement, sufficient evidence to show that both flats' use as such started on or before 7 June 2009 and continued without a significant break until 7 June 2013, which is what is required if the appeal on ground (d) is to succeed.
11. Consequently, I am brought to the inevitable conclusion that the ground (d) appeal has to fail. In reaching this conclusion, I should make it clear that the replacement of Circular 10/97, by relevant sections of national Planning Practice Guidance dated 6 March 2014, has played no part in my decision. The parts of the old Circular, upon which the appellant's agent places reliance, are based on relevant case law, which has been little altered over several years. Changes in government guidance have no impact on this.

### **Formal decision**

**Appeal ref:- APP/V2255/C/13/2201328**

12. It is directed that the enforcement notice is corrected in Section 3 of the notice, "*THE BREACH OF PLANNING CONTROL ALLEGED*", by inserting the words "*from use for the repair and servicing of mowers and tractors*" between the words "*Building*" and "*to*".
13. Subject to this correction, the appeal is dismissed and the enforcement notice upheld.

### **Observations**

Full support for the Council's analysis of the relevant law.

### **Background Papers**

1. SBC enforcement notice dated 7 June 2013
2. Appeal decision dated 4 April 2014 ref: APP/V2255/C/13/2201328

