

AGENDA

EXTRAORDINARY PLANNING COMMITTEE MEETING

Date: Thursday, 31 March 2016

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth, Roger Clark, Richard Darby, Mike Dendor, Mark Ellen, Sue Gent, James Hall, Mike Henderson, James Hunt, Lesley Ingham, Peter Marchington, Bryan Mulhern (Chairman), Prescott (Vice-Chairman) and Ben Stokes

Quorum = 6

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1. Fire Evacuation Procedure

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

 - (a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park; and
 - (b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.
 2. Apologies for Absence and Confirmation of Substitutes

3. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

Part B report for the Planning Committee to decide

4. Deferred Item

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To consider the following application:

15/504264/OUT – Land at Perry Court, London Road, Faversham

Requests to speak on this item must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 30 March 2016.

5. Exclusion of the Press and Public

To decide whether to pass the resolution set out below in respect of the following items:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 5 and 7.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.

6. Report of the Head of Planning

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To consider the attached report (Part 6).

Issued on Friday, 18 March 2016

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Planning Committee, please visit www.swale.gov.uk

**Director of Corporate Services, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

31 March 2016

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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

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

K&MSP Kent and Medway Structure Plan 2006

SBLP Swale Borough Local Plan 2008

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 31 MARCH 2016

DEFERRED ITEMS

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PLANNING COMMITTEE – 31 MARCH 2016

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

REFERENCE NO - 15/504264/OUT		
APPLICATION PROPOSAL Outline application (with all matters reserved other than access into the site) for a mixed use development comprising: up to 310 dwellings; 11,875sqm of B1a floorspace; 3,800sqm of B1b floorspace; 2,850sqm of B1c 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 of 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; 3 gypsy pitches: 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.		
ADDRESS Land At Perry Court, London Road, Faversham, Kent, ME13 8YA		
RECOMMENDATION – GRANT SUBJECT TO COMPLETION OF S106 AGREEMENT and CONDITIONS as set out below.		
SUMMARY OF REASONS FOR RECOMMENDATION – the development is considered to be acceptable, amounting to sustainable development in compliance with the Local and National planning policy.		
REASON FOR REFERRAL TO COMMITTEE Application called-in by Head of Planning Services at meeting on 15 October.		
WARD Watling	PARISH/TOWN COUNCIL Faversham Town and Ospringe Parish.	APPLICANT Hallam Land Management Ltd AGENT Barton Willmore
DECISION DUE DATE 24/09/15	PUBLICITY EXPIRY DATE March 2016	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): see original report at Appendix 1.		

MAIN REPORT

1.0 BACKGROUND

- 1.1 Members will recall that this application was reported to the Planning Committee on 15 October 2015. The report to that meeting is attached as Appendix 1. A report was subsequently drafted for a Special Planning Committee that had been arranged for 19 November 2015, but the meeting did not take place as a result of representations received in respect of potential air quality implications of the development and the need for the Council to give full consideration to them.
- 1.2 The proposed development, and the site and context, are described in detail in the original report, and Members will note that the development description is set out

above. The nature of the site – described at paragraphs 1.01 to 1.05 of the original report – will be noted together with the fact that it extends to 30.3 hectares (or approximately 75 acres). Built development would occupy approximately 50% of the total site area. The part of the minute of the 15 October 2015 Planning Committee meeting relating to the application is attached as Appendix 2.

- 1.3 As set out in the minute, following a detailed discussion of the application, both in terms of its planning merits (or otherwise) and the appropriate procedural arrangements for its determination by Members, a motion to refuse the application was moved and seconded. A number of potential reasons for refusal were then discussed, before powers delegated to officers under Part 3 of the Constitution were used to call the application in, meaning that determination of the application was deferred to a future meeting of the Planning Committee to allow officers to prepare further reports dealing with the potential implications of the application being refused for the reasons being suggested by Members, particularly if challenged at appeal, and if it becomes the subject of an application for costs.
- 1.4 This report deals with the planning merits of such a potential refusal, and the prospects at appeal, while a separate confidential report addresses the potential adverse financial implications if an application for costs were to be made alongside an appeal against the refusal of planning permission.
- 1.5 This report also deals with additional information provided by the applicant in respect of air quality ('Detailed Air Quality Assessment Dispersion Model – February 2016'), a Travel Plan (February 2016) and a legal opinion (dated February 2016 by Thomas Hill QC and Justine Thornton) in response to the legal opinion provided by Robert McCracken QC that had been submitted by objectors.
- 1.6 With regard to the air quality assessment referred to above, Members will note the conclusion at Paragraph 5.13 (on Page 34) of the document, which reads as follows:
- “Therefore, since the detailed air quality assessment confirms that there will be no significant change to annual mean concentrations at the most exposed receptor locations, there is no reason to refuse planning permission on grounds of air quality.”*
- 1.7 Members will also note that, with regard to Traffic Data, the assessment includes future traffic figures for 2020 and 2025 that *“...include committed developments identified through the EIA process...”* As such, the assessment provides in effect a cumulative assessment of the implications for air quality of this development and the other major development proposals that are coming forward in the Faversham area.
- 1.8 I note the final conclusion of the legal opinion submitted by the applicant, which reads as follows: *“...we are of the view that it would be unlawful and indeed, given the factual analysis, perverse of the Local Planning Authority to refuse permission for the proposed development at Perry Court on the basis of the views expressed by Mr McCracken QC in his advice for Clean Air London.”*

2.0 LOCAL REPRESENTATIONS (UPDATE FROM 15 OCTOBER REPORT)

- 2.1 Since the writing of the report to 15 October 2015 meeting, further third party representations have been received as follows:
- 2.2 Five further letters of objection. The issues raised are as summarised at paragraphs 6.01 and 6.02 of the original report.

- 2.3 A letter expressing general support for the development, but including the following, has also been received: “...we wish to object to the three gypsy pitches within this development as we feel this will create dis-harmony and bad-feeling amongst the surrounding businesses and homes within this community.”
- 2.4 A further letter had been received from **Countryside under Threat**. A summary of their earlier letter was set out in paragraph 6.09 of the original report. The new letter raised further issues, summarised as follows: highlighted large volume of objections received during course of the application against the proposals; stated that the ‘green setting south of the A2’ which had been ‘safeguarded for an age’ to protect the character of Historic Faversham was supported by the letter received by Historic England; it was understood that homes were needed but not at the expense of destroying heritage and setting; and Faversham historically competed with Canterbury and York as a very important historic town.
- 2.5 Further to their initial letter (which is summarised at paragraph 6.05 of the original report), a further letter has been received from the **Faversham Society**. This was tabled at the meeting on 15 October 2015.
- 2.6 In addition, following re-consultation (the posting of site notices and direct consultation of third parties) on the additional information seventy-one further responses have been received. The new issues raised (which are in addition to those summarised at Paragraph 6.02 of the original Committee report) are summarised as follows:
- This development has already been rejected once [similar scheme refused under SW/14/0015] by Swale Borough Council, and it would be “*irrational and vulnerable to legal challenge...*” if approved now;
 - Faversham Town Council oppose this development and Swale Borough Council should follow their lead and reject the proposals;
 - The applicant may be being “*devious and economical with the truth in their air quality survey...*”
 - The new air quality report identifies “*increases in pollution in all receptor sites...*”
 - The air quality report is not impartial and appears not to take account of other developments likely to be built in the Faversham area;
 - The conclusions and methodology of the air quality report are also challenged;
 - Swale Borough Council should carry out “*an exhaustive assessment of the affects that...[all new developments locally, including development proposals in the Teynham area]...might have on air pollution*”;
 - Weight should be given to QC Robert McCracken’s legal opinion (which it is stated “*is completely independent of any developer*” in respect of air quality), which suggests that planning permission should not be granted in this instance;
 - The legal opinion provided by the applicants does not convince people to accept the air quality implications;
 - The need for new homes should not be put above the health of local residents;
 - Planning Committee should be allowed to determine the application without interference from officers;
 - The development conflicts fundamentally with the NPPF [see Paragraph 5.01 of original Committee report]
 - Local roads will not accommodate additional traffic from this development and other new developments that have planning permission but are not implemented and other schemes envisaged under Bearing Fruits 2031;
 - Faversham area “*...must be treated separately from the rest of Swale...*” with an emphasis placed on protecting its “*...rural hinterland and heritage...*”;

- Why has the Council not conducted its own surveys for air pollution along the A2 / A251 corridors?
- It is suggested that Highways England are “*concerned*” about the various development proposals for the Faversham area, having identified in particular that Junction 7 (Brenley Corner) of the M2 is already at capacity [Members will note that HE raise no objection to this application, and that the site immediately adjoins Junction 6 of the M2];
- Despite the new evidence, this scheme is “...*still totally unsuitable for the town.*”;
- The Travel Plan (TP) is considered to be generic, rather than being a specific response to the proposed development – it lacks credibility and it is questioned whether it is actually “*well-developed*” and the measures proposed are considered to be “*tokenistic*”;
- The TP won’t achieve its stated aim of reducing “...*vehicle emissions from the development by at least a further 10%.*”;
- Would implementation / compliance with the TP be monitored?
- Surprising that KCC Highways and Transportation raise no objection, given the likelihood of adverse highway impacts;
- The additional information should have no bearing on the decision made, which should be to refuse the application;
- Approving this scheme would set a harmful precedent;
- The scheme would have more merit if it included better infrastructure for road users, including pedestrians and cyclists;
- Given the Inspector’s Interim Findings in respect of the emerging Local Plan and, in particular, the need to identify more development sites in the Faversham area, is it not premature to determine this application now?
- The density of the proposed housing is too low and will lead to urban sprawl;
- It is wrong to suggest that planning is a quasi-judicial process, rather than a democratic one; and
- The approval – on appeal – of the ‘land opposite Greenways, Brogdale Road’ scheme does not set a precedent that justifies the approval of this development

2.7 The **Member of Parliament** for the area has also sent a new letter (having met with a number of constituents) about the application (further to the letter sent last year, which is discussed at Paragraph 6.10 of the original Committee report). The key points raised are as follows:

- Given that application SW/14/0015 was refused permission for a similar development (see ‘planning history’ section of the original Committee report), what has changed to justify recommending that planning permission for this application be granted?
- Concern is expressed that the air quality implications may not be assessed in a comprehensive way, mindful of other developments recently approved in the Faversham area; and
- Why was the application called-in when it was considered at the Planning Committee meeting on 15th October 2015?

2.8 A petition in opposition to the development which has been signed by 272 people has also been received.

3.0 CONSULTATIONS (UPDATE FROM 15 OCTOBER REPORT)

3.1 Since the writing of the report to 15 October 2015 meeting following re-consultation in the light of the additional information to which I refer above, further consultation responses have been received as follows:

3.2 The **Greenspaces Officer** had no objection to the application and welcomed the 15.2 hectares of open space on the site. The play area would be adopted by the Council, but the allotments would not.

3.3 The **Environmental Protection Team Leader** has considered the additional information and an extract from his response reads as follows:

“I have been made aware of an updated air quality assessment [dated February 2016] following discussions between myself and the applicant’s air quality consultant; I was initially concerned about the proximity of the Ospringe AQMA [Air Quality Management Area] and asked for a more thorough atmospheric dispersion assessment to be carried out.

This latest assessment has now been submitted, using an ADMS [Atmospheric Dispersion Modelling System] – Roads atmospheric dispersion model instead of the initially less comprehensive (though still accepted by DEFRA) DMRB [Design Manual for Roads and Bridges] method.

The report itself is both concise and exhaustive. It initially describes the current regime concerning the difference between the Air Quality Regulations 2000 and the Air Quality Standards described in section 80 of the Environment Act 1995, and the development of the National Planning Policy Framework in 2012.

Since the first report was submitted, closer examination of the monitoring data within the Ospringe AQMA have shown some years when the annual mean has not been exceeded, though the report has shown some diffusion tube localities with NO₂ [nitrogen dioxide] readings significantly in excess of this figure.

The methodology followed predicts the urban background levels in 2018, 2020 and 2025 from the initial 2014 data and takes the following features into account - estimates of background concentrations, meteorological data, traffic flows, road dimensions etc.

These factors are then put into the model to calculate an NO₂ annual mean value for the years 2018, 2020 and 2025 to highlight any impact at receptor points described in paragraph 4.27. The receptor points represent locations of buildings within the AQMA that have their facades at the back of the pavement i.e. that are equivalent to a roadside location, i.e. a worst-case scenario.

The figures in table 4.5 for maximum traffic generated 2020 show mostly negligible impact with a few slight impacts for these receptor points and for 2025 shows only negligible impacts.

In slight contrast, table 4.6 for the impact from traffic generated by the site in 2018 does contain a few moderate impacts at receptor points 7 & 8, diffusion tube locality SW31 and at the continuous monitoring point ZW3.

These tables are important because they basically state that there might be an initial moderate impact from this development at some localities by 2018 but by 2025 it will only be a negligible.

These predictions, coupled with the lack of consistent exceedances at the monitoring initially feared. This more detailed investigation has made the evidence clearer and convinced me that my initial concerns were premature.

RECOMMENDATIONS:

Following on from this assessment and other developments, I am now satisfied that there is sufficient evidence for me to withdraw my initial objection on air quality grounds to this proposal.”

- 3.4 **Kent County Council Highways and Transportation**... have reviewed the Travel Plan submitted [in addition to their earlier consideration of Transport Assessment originally submitted with the planning application], and an extract from their response reads as follows:

“The junction of The Mall and the A2 will exceed available capacity in the future year scenario without the Perry Court development. With this in mind the impact of the development on the already saturated junction was calculated and outputs suggested that the maximum number of additional vehicles which would impact this junction from the Perry Court development was 5 additional vehicles added to the queue turning into The Mall in the peak hour. This is not significant enough to warrant a refusal and the developers have agreed to try to offset this impact by promoting modal shift with the introduction of travel vouchers towards a carnet of bus tickets.”

They also state:

“The travel vouchers can form part of the Travel Plan obligation and thus a separate covenant is not required. There will be a £5000 monitoring / auditing fee payable to KCC to cover the lifespan of the 5 year travel plan.”

- 3.5 **Highways England** “do not offer any additional comments on the proposal...” Members will note that, at Paragraph 7.4 of the original Committee report, they raise no objection to the proposed development.
- 3.6 **Historic England** have reiterated their previous comments, namely that they raise no objection and consider that the application should be determined in accordance with national and local planning guidance and the advice of our conservation officer.
- 3.7 **Southern Water** have “no comments to make”.
- 3.8 **Ospringle Parish Council** state that “...Councillors and local residents are still very concerned about the negative impact on the area if this application is approved.” It is suggested that, notwithstanding the new air quality assessment provided, there could be a harmful impact on air quality in the AQMA with consequent adverse implications for human health, underlined by recent reports which “*underline the dangers of air pollution*”. They also suggest that the Travel Plan is insubstantial. Members will also note their initial comments, which are summarised at Paragraph 6.07 of the original Committee report.
- 3.9 **Kent County Council Ecology** have “...no comments to make on these documents”.
- 3.10 **Natural England** advice that their previous advice applies equally to the amendment.
- 3.11 The **Environment Agency** have no further comments to make on the application.
- 3.12 **Kent Police** have no further comments to make on the application.
- 3.13 **Faversham Town Council** have not commented on the additional information.

3.14 UK Power Networks have no objection to the proposed development.

4.0 APPRAISAL

4.1 As set out in the minute of the meeting on 15 October 2015, the potential reasons for refusal put forward then were as follows:

- (i) Loss of “high quality” [known as Best and Most Versatile (BMV) – namely Grades 1, 2 and 3a] agricultural land
- (ii) highway congestion;
- (iii) air quality;
- (iv) density of development too high;
- (v) conflict with / site not being allocated in, Bearing Fruits 2031
- (vi) reference was also made to potentially using the reasons for refusal of the previous mixed use development of the site – application SW/14/0015 – namely unsustainable development and the failure to provide gypsy and traveller pitches as required under Policy CP3 and DM10 of the emerging Local Plan Bearing Fruits 2031.

4.2 The following discussion evaluates each of these in turn, and also deals with the additional information provided to address the air quality issue.

4.3 *Loss of Best and Most Versatile farmland* – this issue is dealt with in detail in the original report, and Members will be mindful of the comments of the Council’s Agricultural Consultant, the applicant’s response and the requirements of the NPPF Paragraph 112 and of the Local Plans. Paragraphs 27 to 30 of the appended appeal decision should also be noted. It is accepted that the development would result in the loss of a significant amount of BMV land and that poorer quality land should be developed in preference to this. However, in the absence of suitable alternative sites not on BMV, it is officers’ view that the benefits of the development – mindful of the lack of a five-year housing land supply – outweigh the harm arising from its loss. As such, it is felt that such a reason for refusal would be difficult to defend at appeal.

4.4 *Highway congestion* – Members will recall that neither of the highway authorities - namely Highways England, who are responsible for the strategic road network, or KCC Highways and Transportation, who maintain the local road network (which includes Brogdale Road, Ashford Road (the A251) and London Road (the A2) – objected to the application as originally submitted; the technical evidence submitted in the support of the application (notably the Transport Assessment) being sufficient to satisfy them that, subject to appropriate mitigation, that unacceptable impacts on their road networks would not result from the development. The delivery of the mitigation – consisting of a combination of off-site highway improvements and measures to encourage green travel modes – could be tied to any permission granted for the development. Members will also have noted the further comments from Highways England and KCC Highways and Transportation as set out above. In these circumstances, such a reason for refusal would be very difficult to defend at appeal.

4.5 Members will also note that if permission is granted, green travel measures would be secured using a Travel Plan to be required by condition (9) below, which could draw upon but would not be limited to measures as set out in the submitted Travel Plan to which I refer above.

- 4.6 *Air Quality* – it is acknowledged that an existing Air Quality Management Area, on the A2 / Ospringle Street just to the north-west of the application site, already experiences harmful levels of atmospheric pollution; the Council’s Environmental Protection Team Leader has considered the potential impact of the proposed development (and Members will note the relevant elements of the appended Committee report) and, as advised at the meeting on 15 October, he seeks a “*developer contribution to mitigate the effects of the development on the air quality in Ospringle.*” As set out above, at Paragraph 3.2.2, the Council’s Environmental Protection Team Leader has now considered the new air quality assessment, and the conclusion of his assessment is that there is “*sufficient evidence for him to withdraw his initial objection on air quality grounds*”.
- 4.7 I have also had carefully regard to the comment of third parties in respect of air quality and also the legal opinion of Robert Mc Cracken QC and, in response to it, taken legal advice on the matter.
- 4.8 Having done this, I conclude that there is no basis for the Council to refuse this application on grounds of potential adverse air quality implications.
- 4.9 *Density of Development Too High* – as set out above and in the original report, only approximately 50% of the site area would be built upon under this proposal and within the areas to be developed the amount of housing and commercial uses proposed are such that the development could be provided at a density that would not be at odds with the grain of existing development, or the building heights, that are typical of the local area, or that are likely to result from the planning permission recently granted for housing on the Brogdale Road / Brogdale Place site (which is attached as Appendix 3); Members will note that the indicative details suggest that the 310 dwellings would be sited on 8.85 hectares, giving a typical density of 35 dwellings per hectare. In addition, the reserved matters application(s) that would need to be made would allow the Council to control the quality of the details and ensure a sympathetic development. Accordingly, it would be very difficult to defend such a reason for refusal at appeal.
- 4.10 *Bearing Fruits 2031 – conflict with / non-allocation under emerging Local Plan* – as the decision to grant planning permission for housing development on the Brogdale Road / Brogdale Place site demonstrates, in the absence of a five-year housing land supply the fact that a site is not allocated for housing development (in either the adopted or the emerging local plan) and the fact that a site is outside the built-up area boundary are not robust reasons for an application such as this to be refused. In these circumstances, paragraph 49 of the NPPF makes it clear that “*...housing applications should be considered in the context of the presumption in favour of sustainable development.*” The Council has considered this application in this way and concluded that it amounts to sustainable development. This issue is explored in detail in the original report. Members will also note that the weight to be attached to the emerging Local Plan is greatly diminished by the published Interim Findings issued by the Inspector carrying out the Examination in Public for Bearing Fruits. With regard to housing supply she concludes that:

“*...there are sufficient sites available to enable it [the Council] to deliver the full OAN [objectively assessed need; namely 13,000 dwellings over the 17-year plan period or 776 dwellings per annum] for the plan period whilst maintaining the settlement strategy of two planning areas. The Council should therefore proceed to allocate sites to meet a revised target of 776 dwellings per annum.*”

In addition, at Paragraph 28, she suggests that the Council is now in a position to “...*nudge the housing target upwards across the Borough...with a proportional boost to allocations in Faversham and the rural areas.*”

These interim findings clearly strengthen the case for accepting the principle of residential development on this site, given that additional housing sites in the Faversham area will clearly be needed in order to meet the OAN.

I am unconvinced that there is any prospect that an Inspector considering an appeal in the event that this application were to be refused, would accept that the development was in conflict with the emerging Local Plan and that the issue amounted to a reason to dismiss the appeal

- 4.11 On the question of *prematurity*, paragraph: 014 Reference ID: 21b-014-20140306 of the National Planning Guidance is clear that arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. The Guidance sets out situations where this may be the case. One such circumstance that would apply in this instance is that the draft Local Plan is at an advance stage, but the Guidance also requires development proposals to be so substantial, or their cumulative effects so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging [Local Plan](#).

This is not likely to be the case here. I have already concluded that the harm from the proposals does not outweigh its benefits, however, even if planning permission were granted, the scale of development would not be so sufficient as to undermine the settlement strategy of the emerging Local Plan in terms of the relative differences in growth planned between the Thames Gateway area part of the Borough and that at Faversham. Furthermore, given that the settlement strategy of the emerging Local Plan already includes Faversham as a settlement suitable for an appropriate growth provision, planning permission on this site could not be said to predetermine any decision about the location of development. Whilst, planning permission here would no doubt lead to pressures to develop other sites south of the A2, there are clear differences between many of these and the application site, which together with other material considerations, would by no means inevitably lead to a situation that planning permission would have to be granted for these sites as well. Such sites would need to be considered on their own merits, either via the Local Plan or planning application process.

In my judgement, this situation does not strongly indicate that the Local Plan-making process would be undermined by a premature decision; indeed there are counter arguments that it may assist in its defence. As well as being mindful of the risks associated with the failure to provide a 5-year supply of housing, Members will have noted above that the Council’s current development targets proposed for the Borough through the emerging Local Plan are under considerable upward pressure, as is the approach toward the distribution of development across the Borough. The grant of planning permission here would significantly boost the Council’s position in the face of these pressures, whilst even if planning permission were to be refused, in the event of a need to allocate further sites, my conclusions in respect of this site would inevitably need to feature largely in the minds of Members.

- 4.12 *Reason for refusal of SW/14/0015* – Members will note the wording of the refusal reasons. I have dealt with the loss of BMV farmland at paragraph 4.3 above. With regard to the question of whether the development could be considered to be unsustainable and, in particular, whether the harm arising would be sufficient to justify the refusal of planning permission, this was considered by the Inspector considering the Brogdale / Brogdale Place appeal. He concluded in that case that it would not be. Although the current application is in a different location (albeit close to that site) and proposes development on a much larger scale, as set out in the original report it is considered that any adverse impact would be limited and would be out-weighed by the benefits of the development. As such, I consider that it would be difficult to defend such a reason for refusal at appeal.
- 4.13 The *second reason for refusal under SW/14/0015* related to the lack of provision of gypsy and traveller pitches as required under Policies CP3 and DM10 of Bearing Fruits 2031. The current application includes, as Members will have noted from the 'application proposal' above, '3 gypsy pitches'. This satisfies the policy requirement. As such, it would not be possible to defend a reason for refusal on this issue.

5.0 CONCLUSION

- 5.01 With the above in mind, I consider that none of the suggested possible reasons for refusal would be likely to amount to sufficient justification for an Inspector to dismiss an appeal in the event that permission were to be refused. Furthermore, I am satisfied that the additional information provided demonstrates that the development would not have unacceptable implications for air quality. Therefore the original recommendation to approve this application was correct and justified by the evidence presented in the submission.
- 5.02 I therefore prevail on Members to approve this application.

- 6.0 RECOMMENDATION – GRANT** Subject to the signing of a suitably-worded Section 106 Agreement and conditions as set out below.

CONDITIONS:

- (1) Details relating to the layout, scale and appearance of the proposed building(s), and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reasons: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reasons: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reasons: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (4) The details submitted pursuant to condition (1) above shall show the residential development restricted to the residential areas as identified indicatively on the 'Illustrative Site Layout' Drawing Number: 5187-PL2-02 Revision B.

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

- (5) For each phase of the development hereby approved, no development shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures will be 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 of the phase of development in question as approved, and retained as such in perpetuity.

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

- (6) No development shall take place until details of a scheme for the long-term monitoring of breeding birds using the site has been submitted to, and approved in writing by, the Local Planning Authority.

Reasons: In the interests of monitoring breeding bird populations within the site.

- (7) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

- (8) Before the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:

- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
- (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 - (1) highway drainage, including off-site works,
 - (2) junction visibility splays,
 - (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

- (9) No dwelling hereby approved shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority, and it shall be thereafter be

implemented in accordance with the approved details. There shall be an annual review of the Travel Plan (for a period of 5 years from the date of approval of the plan) to monitor progress in meeting the targets for reducing car journeys.

Reason: To ensure the development accords with the measures set out in the travel plan, and in the interests of sustainable development and promoting public transport, walking and cycle visits.

- (10) None of the dwellings hereby approved shall be first occupied until details of measures to ensure that the emergency vehicular access to the approved housing is used only in the event of an emergency have been submitted to and approved in writing by the Local Planning Authority. The agreed measures shall then be implemented in accordance with a programme that shall also have been agreed in writing by the Local Planning Authority. Following implementation, the approved measures shall then be retained in perpetuity.

Reason: In the interests of highway safety and convenience.

- (11) The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking or garaging of cars and such land shall be kept available for this purpose 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 such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity and in pursuance of policies E1 and T3 of the Swale Borough Local Plan 2008.

- (12) The details submitted pursuant to condition (1) above shall show adequate land reserved for the parking of vehicles and for the loading and off-loading of commercial vehicles, and upon approval of the details 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 to this reserved space; such land and access thereto shall be provided prior to the occupation of the building hereby permitted and shall be used for or be available for use for the parking, loading and off-loading of vehicles at all times when the premises are in use.

Reason: The development, without the provision of parking, loading and off-loading 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

- (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, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

- (14) The accesses details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the accesses shall

thereafter be maintained and shall make use of bound surface materials for the first 5 metres of the access from the edge of the highway

Reason: In the interests of highway safety.

- (15) Full details of the bunding (include plans and cross section of the bund, and details of any gates or openings, including plans for the operation and maintenance of these), the raised walkways and viewing areas shall be submitted to and approved in writing prior to the commencement of development.

Reason: In the interests of visual amenity

- (16) The development hereby approved shall be carried out in accordance with the following approved drawings:
 5187-PL-01 Rev B Redline Plan
 10182/HL/01 Rev A Proposed Signal Junction Ashford Road/ Canterbury Road
 10182/HL/02 Rev - Proposed Roundabout Ashford Road
 10182/HL/03 Rev - Proposed Junction Brogdale Road

Reasons: In the interests of proper planning and for the avoidance of doubt.

- (17) 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 District Planning Authority.

Reason: In the interests of residential amenity.

- (18) No development shall take place until a detailed mitigation strategy for all species has been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be implemented in accordance with the agreed arrangements.

Reasons: In the interests of protecting and encouraging biodiversity.

- (19) No development shall take place until a strategy for updating ecological surveys, where development is not implemented within two years of date of surveys.

Reasons: In the interests of protecting and encouraging biodiversity.

- (20) No development of the scheme hereby approved shall take place until a Construction and Environmental 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. This shall include details relating to:

- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
- (ii) The loading and unloading and storage of plant and materials on site;
- (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (iv) The control and suppression of dust and noise including arrangements to monitor dust emissions from the development site during the construction phase;
- (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;

- (vi) Measures to control mud deposition off-site from vehicles leaving the site;
- (vii) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
- (viii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
- (ix) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
- (x) Lighting strategy for the construction phase, designed to minimise light spillage from the application site; and
- (xi) Phasing of the development.

Reasons: To ensure the development does not prejudice conditions of residential amenity, highway safety and convenience, and local ecology, through adverse levels of noise and disturbance during construction.

- (21) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
- (i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and
 - (ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reasons: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- (22) Construction of the development hereby approved shall not commence until details of the proposed means of foul drainage have been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water, Natural England and the Environment Agency.

Reasons: In the interests of achieving an acceptable scheme of foul drainage and in the interests of minimising flood risk and ground water contamination.

- (23) No development shall take place until a Green Infrastructure and Biodiversity Management Plan (GIBMP), has been submitted to and approved in writing by the Local Planning Authority.

Reasons: In the interests of protecting and encouraging biodiversity

- (24) The details submitted in pursuance of condition (1) above shall be in accordance with a Development Brief that shall first have been agreed in writing by the Local Planning Authority and which shall include the following:
- (a) Details of the road layout for the site;
 - (b) A comprehensive network of segregated pedestrian and cycle routes;
 - (c) An overall landscape strategy for the application site;
 - (d) An overall sustainable surface water drainage strategy for the application site (based on a network of open ditches and ponds);

- (e) A strategy for the architectural treatment of the buildings on the site, including elevational treatment, roof design and the palette of colours;
- (f) A strategy to maximise opportunities for biodiversity across all parts of the application site, including within the residential parcels;
- (g) A lighting plan for the site, to include details of the lighting columns, the type and luminance of the lighting units with glare shields and details of lux levels, both inside and outside the site;
- (h) A strategy for dwelling storey heights;
- (i) A strategy for ensuring the sympathetic development of part of the site close to Brogdale Road and Ashford Road;
- (j) A strategy for cycle parking; and
- (k) A strategy to ensure that development is set back by an appropriate distance from the high-pressure gas pipeline that crosses the site.

Reasons: In the interests of promoting a consistent quality of development, sustainable development, ecological protection and enhancement, and of visual and landscape amenity.

- (25) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

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

- (26) Prior to each phase of development approved by this planning permission no development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved. Sufficient information has been provided to satisfy part 1 of the above condition.

Reasons: To ensure any possible land contamination related to historic site activities is addressed in line with current planning guidance on sustainable development. To protect controlled waters and comply with the NPPF: Paragraph 109 states that the planning system should contribute to and enhance the natural and

local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

- (27) No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reasons: To protect controlled waters and comply with the NPPF.

- (28) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons: To protect controlled waters and comply with the NPPF.

- (29) No infiltration of surface water drainage into the ground at the site is permitted other than with the express prior written 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 controlled waters. The development shall be carried out in accordance with the approval details.

Reasons: To protect controlled water and comply with the NPPF.

- (30) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written prior 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.

Reason: To protect controlled water and comply with the NPPF.

- (31) Adequate precautions to be previously agreed in writing by the Local Planning Authority, shall be taken during the period of demolition and construction to prevent the deposit of mud and/or other debris on the public highway.

Reason: In the interests of highway safety and convenience.

- (32) During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority and in accordance with details that shall first have been agreed in writing with them, to accommodate operatives' and construction vehicles parking, loading, off-loading or turning on the site.

Reason: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety.

- (33) No development shall take place until a full tree survey, tree impact assessment, tree protection plan and arboricultural method statement in accordance with the recommendations of BS 5837:2012 have been submitted to and approved in writing by the local planning authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees and hedges, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme.

Reason: No such details have been provide and to safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

- (34) No development shall take place until a detailed strategic landscape scheme (which shall be native species and of a type that will encourage wildlife and biodiversity) designed in accordance with the principles of the Council's Landscape character guidance has been submitted to and approved in writing by the Local Planning Authority. The scheme shall show all existing trees, hedges and blocks of landscaping on - and immediately adjacent to - the site and indicate whether they are to be retained or removed. It shall detail measures for protection of species to be retained, provide details of on-site replacement planting to mitigate any loss of amenity and biodiversity value together with the location of any habitat piles and include a planting specification, a programme of implementation and a minimum five year management programme.

Reason: No such details have been submitted and to ensure a satisfactory setting and external appearance to the development

- (35) 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.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (36) (i) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based on the preliminary strategy prepared by Brookbank Consulting Ltd (May 2015) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of through open infiltration features located within the curtilage of the site.
- (ii) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or

statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (37) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect controlled water and comply with the NPPF

- (38) Before development commences details shall be submitted (or as part of reserved matters) for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential, commercial and community. This shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process.

Reason: In the interests of residential amenity.

- (39) No work shall commence on the development site until the off-site highway works indicated on drawings:
 10182/HL/01 Rev A Proposed Signal Junction Ashford Road/ Canterbury Road
 10182/HL/02 Rev - Proposed Roundabout Ashford Road
 10182/HL/03 Rev - Proposed Junction Brogdale Road
 have been carried out in accordance with a design and specification that shall first have been approved in writing with the Local Planning Authority, and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

- (40) Alterations to the public footpath known as ZF18, where it is directly affected by the proposed allotments and gypsy and traveller pitches will need to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety and convenience.

- (41) All land allocated for development as employment land, Use Class B1 and shown on the submitted 'Illustrative Layout' Drawing Number: 5187-PL2-02 Revision B shall be retained for such uses and for no other purpose.

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

INFORMATIVES

1. It is the responsibility of the applicant to ensure before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The

applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Environment Agency Informatives:

2. **Waste on site**

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
 - treated materials can be transferred between sites as part of a hub and cluster project
 - some naturally occurring clean material can be transferred directly between sites.
- Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to our:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website at www.environment-agency.gov.uk for further guidance.

Fuel, Oil and Chemical Storage

Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.

The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

Advice for developers

We have produced advice with Natural England and the Forestry Commission on how new development can help improve the environment. This is in line with the national planning policy framework (NPPF) “the planning system should contribute to and enhance the natural and local environment” (Para 109).

<https://www.gov.uk/government/publications/planning-a-guide-for-developers>

3. Scotia Gas Networks Informatives:

The high pressure gas pipeline in the vicinity of the proposed development has a Building Proximity Distance (BPD). The building proximity distance (zone 1) is 3

metres either side of the pipeline. This should not however be confused with the HSE consultation zones 2 & 3 which will be considerably greater. Zone 1 is a safety factor with reference to habitable buildings as recommended by IGE/TD/1. It is calculated from the diameter, material, wall thickness and pressure of the particular pipeline. Under Pipeline Safety Regulations 1996 this distance is declared to the HSE. Any intrusion within this safety zone should not be taken lightly and any intention to proceed should be accompanied by a risk assessment or provision of other supporting evidence especially in the event of any legal proceedings at a later date. I have attached a copy of our plans showing the pipeline in relation to this site. Pipelines laid in private land are protected by a Deed of grant, which prohibits certain activities within the easement strip like no addition to or removal of surface levels, no structures over or within the specified distance of the pipeline. Further details are available if you require them. A request to us for any copies could incur a small fee, payable in advance. The easement strip is 8 metres in width. 4 metres either side from the centre-line of the pipeline. Any vehicle crossings over the pipeline will require: calculations to prove that no additional stresses will be incurred; a design showing the roadway in relation to the pipeline; and method statements to be agreed with SGN before it goes ahead. Road crossings need to be kept to a minimum.

This pipeline is of prime importance to the gas supplies of this area. Should any work be contemplated it is essential that you comply with the restrictions detailed below and in the document SGN/SP/SSW22 in order to protect our plant and equipment and for the safety of your own operatives

- 1) No mechanical excavation is allowed within 3 metres either side of pipeline.
- 2) No plant or storage of equipment shall be made within any easement strip.
- 3) If any metallic pipes or cables are being laid in proximity to gas pipelines then interference testing will be required, the cost of which to be borne by the promoter of the works. A minimum clearance of 600mm is required.
- 4) All precautions stated in publication SGN/SP/SSW22 (Safe Working in the Vicinity of High Pressure Gas Pipelines) shall be fully complied with in all respects. Acceptance of SSW22 shall be acknowledged by the responsible site person signing and returning the form Appendix A (back page) to the SGN representative contacted in (7).
- 5) No thrust boring shall take place within three metres of the pipeline.
- 6) All planting within the easement strip should comply with Notes for Guidance on Tree Proximity.
- 7) Before commencing work on site you must contact our Pipeline Maintenance Section on 0141 4184093 at least three days before work commences. A Southern Gas Networks representative will then contact you to arrange to visit site. Details of working near to high-pressure gas pipelines can then be discussed.
- 8) Pipeline sections that are planned and agreed by SGN to be permanently covered (i.e. by road surface) will require a coating survey. SGN will repair any indicated coating defects free of charge. The survey costs will be borne by the promoter of the works. Prior to any surface cover cathodic protection coupons and reference cells will require installation at no cost to SGN.
- 9) This pipeline is cathodically protected and as such has test cables located in surface boxes, were these to be lost through this work we would look to you for remedial action at no cost to SGN.
- 10) Intrusive construction methods will require an agreed method statement prior to work starting.
- 11) The minimum proximity between the high pressure gas pipeline and any wind turbine should be 1.5 times the fixed mast height excluding the turbine of the wind turbine. If you are planning to construct a wind turbine closer than this, then you must contact SGN immediately.

- 12) Any extended period of SGN site supervision may incur charges to you. These will be charged based on visiting times, materials and occurrences. You will be informed when these come into effect and be invoiced direct.
- 13) Any piling or boreholes within 15 metres of the pipeline may require vibration monitoring. No piling or boreholing must take place within 3 metres of the pipeline.

4. Broadband Provision

The BT GPON system is currently being rolled out in Kent by BDUK. This is a laid fibre optical network offering a single optical fibre to multi point destinations i.e. fibre direct to premises.

5. Southern Water

The applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Atkins Limited at Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH, or 'southernwater.co.uk'

APPENDICES

Appendix 1 – report to Planning Committee on 15 October 2015

Appendix 2 – extract from minute of the Planning Committee on 15 October 2015 [appendix 2 of the report to 19/11/15 Committee]

Appendix 3 – appeal decision for Brogdale Road / Brogdale Place site

Case Officer: James Wilson

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX 1 (Def Item 31.03.16)

2.7 REFERENCE NO - 15/504264/OUT			
APPLICATION PROPOSAL			
Outline application (with all matters reserved other than access into the site) for a mixed use development comprising: up to 310 dwellings; 11,875sqm of B1a floorspace; 3,800sqm of B1b floorspace; 2,850sqm of B1c 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 of 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; 3 gypsy pitches: 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.			
ADDRESS Land At Perry Court London Road Faversham Kent ME13 8YA			
RECOMMENDATION APPROVE subject to the signing of a suitably-worded Section 106 Agreement and planning conditions.			
SUMMARY OF REASONS FOR RECOMMENDATION			
The proposed mixed use development is considered to be acceptable, amounting to sustainable development and in broad compliance with Local and National planning policy			
REASON FOR REFERRAL TO COMMITTEE			
Notable number of objections received and the significant scale of the proposed development.			
WARD Watling	PARISH/TOWN COUNCIL Faversham	APPLICANT Hallam Land Management Ltd AGENT Barton Willmore	
DECISION DUE DATE 24/09/15	PUBLICITY EXPIRY DATE 24/09/15	OFFICER SITE VISIT DATE Various from 13 th August 2015	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/14/0015	Outline application (with some 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	Refused	9 th June 2014

APPENDIX 1 (Def Item 31.03.16)

	home (use class C2)(up to of 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.		
SW/13/1567 (PINS ref: APP/V2255/A/14/ 2224509) (Adjoining site in Brogdale Road)	Outline application for erection of 63 dwellings, open space, pedestrian and vehicular access, car parking, landscaping and associated works on land at Brogdale Road (on the western side, just to the north-west of the current application site)	Refused Appeal Allowed	25 th March 2014 13 th May 2015

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is currently comprised of agricultural fields which are defined by hedgerows which run in a north to south direction. The total area of the site is 30.3 hectares, or approximately 75 acres, in size. There are no buildings located on the site and a public footpath crosses the site from Brogdale Road to Perry Court, i.e. west to north.
- 1.02 To the north of the application site lies The Abbey School, Perry Court Farm and varying residential properties. To the east, lies Ashford Road and residential dwellings which form a linear pattern along this road from north to south. The southern boundary of the site is defined by the M2 motorway. And, the application site is bound to the west by Brogdale Road and the two residential dwellings, known as ‘Ash Tree Cottages’.
- 1.03 A Grade II listed Oasthouse, which forms part of Perry Court Farm, is located directly north-west of the Site and was built in 1904. Additionally, Orchard Cottages, which are also Grade II listed, are located beyond Ashford Road to the north-east, and a Grade II listed Gazebo located adjacent to the A2 and Ashford Road junction, are within fairly close proximity of the application site. It is also noted that a listed windmill is located to the south of the M2.
- 1.04 The site is designated as countryside as it falls outside the Built-Up Area Boundary of Faversham as defined by the adopted Swale Borough Local Plan 2008. The adopted Local Plan Proposals Map identifies that the application site is not subject to any other allocations or designations. An area of land lying to the south of the site, beyond the M2, is defined as a Special

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Landscape Area by the adopted Local Plan Proposals Map. In addition, the Kent Downs Area of Outstanding Natural Beauty is located less than half a mile to the south-west of the application site – beyond the M2.

- 1.05 The topography of the site falls away from two local highpoints in the south-east and the south-west corners of the site, to a shallow vegetated valley running from the M2 motorway to the centre of the site. The lowest point within the site lies in the north-west corner. The surrounding landform is gently sloping and in general falls slowly through Faversham to a height of 5m AOD where it meets and drains into Faversham Creek.

2.0 PROPOSAL

- 2.01 As noted above, the application proposals comprise of an outline application, with all matters reserved other than access into the site, for a mixed use development comprising of: up to 310 dwellings; 11,875sqm of B1a (non-A2 office) 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 and up to 100 bedrooms and including an ancillary restaurant; a care home (use class C2) up to 3,800 sqm and up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; 3 gypsy pitches; 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.
- 2.02 The only matters to be determined at this stage in detail relate to the proposed accesses in to the application site from Ashford Road and Brogdale Road. All other matters, including access within the site are reserved for future determination.
- 2.03 The proposed development will predominantly be residential and commercial in nature and the land uses will be made up as follows:

Land Use	Totals	Hectares
Area for proposed residential built development (C3) and local convenience store (A1)	Up to 310 residential units and 200sqm of A1	8.35
Area for proposed Care home (C2)	Up to 60 Bedrooms	0.5
Area for proposed hotel (C1)	Up to 100 bedrooms	0.75
Area for proposed employment land (B1a, B1b, B1c)	11,875sqm B1a 3,800sqm of B1b 2,850sqm of B1c	3

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Area for proposed landscape includes public open space, sustainable drainage, structural landscaping, existing vegetation and permissive paths/cycleways		15.2
Gypsy pitches	3	

- 2.04 The application is supported by a Parameter Plan which identifies the disposition of land uses proposed within the application site. Whilst not part of the development, the Parameter Plan identifies an additional 2 hectares of land safeguarded for commercial uses should proposals for its development be brought forward at a later date. The development of this additional employment land would be the subject of a separate planning application.
- 2.05 Building upon the Parameter Plan, the application is accompanied by a Development Masterplan and an Illustrative Layout, the latter of which demonstrates one way in which the scheme could be developed within the scope of the principles established by the Parameter Plan and Development Masterplan.

Residential

- 2.06 Up to 310 residential units will be provided as part of the proposed development, a proportion of which will be allocated as affordable housing. The exact mix of the proposed housing (size, type and tenure) will be determined at the reserved matters stage. The proposed dwelling type, mix and number will predominantly reflect the general character of the area and likely comprise a greater proportion of family sized housing in response to local characteristics.
- 2.07 It is worth noting that, the Local Planning Authority requires – under the adopted Local Plan - affordable housing to be provided at 30% of the total number of dwellings.
- 2.08 The proposed development also makes provision for three gypsy pitches which are anticipated to be located adjacent to the proposed allotment area of the site, located in the south-westerly quarter of the site, adjacent to the public right of way that crosses the site.

Employment

- 2.09 3 hectares of land will be provided for a mix of B1 employment uses, which will accommodate approximately 18,525sqm of floor area. As noted above, a further two hectares of employment land can be accommodated at the

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application site thus, providing the potential for future economic growth and employment opportunities. The proposed employment land will make provision for 11,875sqm of B1a floorspace, 3,800sqm of B1b floorspace and 2,850sqm of B1c floorspace and a hotel.

Care Home

- 2.10 Land for a care home, to provide up to 60 bedrooms and accommodate all ancillary floorspace such as communal lounges, kitchens, staffing areas and treatment rooms, for example, will be provided within the eastern part of the development. The care home will comprise of up to 3,800sqm of floorspace within use class C2. The proposed care home will be provided as a residential institution which include residential accommodation and care to people in need of care.

Hotel

- 2.11 A hotel of up to 100 bedrooms and comprising an ancillary restaurant is proposed to be accommodated within an area of 0.75 hectares in the eastern part of the application site. The proposed hotel will comprise up to 3,250sqm of floorspace within use class C1.

Retail

- 2.12 A local convenience store, use class A1, is proposed as part of the development to cater for day to day needs of local residents. The store will comprise 200sqm of floorspace, which would be accommodated within a site of 0.5 hectares – with the balance of the site comprising of residential development.

Access

- 2.13 The main point of vehicular access into the development will be from a new primary access junction off the A251 Ashford Road, opposite Numbers 81 and 83. A secondary access will be provided onto Brogdale Road, slightly to the north of 1 and 2, Ash Tree Cottages. A potential drop off area is proposed in the north of the development, providing pedestrian access to The Abbey School adjacent to the application site. Junction 6 of the M2 motorway is immediately to the south of the application site, while Junction 7 (Brenley Corner) is just to the west of Faversham, where the road joins the A2 and the A299 (Thanet Way).
- 2.14 It is noted that the existing public footpath (ZF 18) that crosses the application site will be retained.

Landscaping and Open Space

- 2.15 The development proposals include 15.2 hectares of land for proposed landscaping. This will include: Proposed areas of play

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Public open space
 Sustainable drainage
 Structural landscape
 Existing vegetation, and
 Permissive paths/cycleways

2.16 A noise attenuation bund, approximately 3 metres high, will also be provided within this area on the southern boundary of the application site adjacent to the M2.

Sustainable Drainage Measures

2.17 A storm water management system will be provided and includes a sustainable drainage system (SuDS), incorporating source control and infiltration systems. The network will convey and attenuate storm water discharges from the development to the points of discharge on the southern boundary of the application site. The outline SuDS scheme has had regard to sustainable methods that are readily accepted for adoption by the relevant authorities in discharging their maintenance responsibilities and will incorporate permeable paving, where applicable. Maintenance will ensure that the storm water management system remains functional for the lifetime of the development and protect the drainage catchment from increased flood risk.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	30.3 hectares (75 acres)	30.3 hectares (75 acres)	0
No. of Residential Units	0	310	+310
No. of Affordable Units	0	30%	+30%

4.0 PLANNING CONSTRAINTS

4.01 The site is neither in, or affecting the setting of, a Conservation Area (CA). Members will note though that the CA extends to the A2 just to the north of the application site and includes an area of land to the south of the A2 on the eastern side of the A251 Ashford Road.

4.02 There are no trees on the site that are covered by a TPO.

4.03 There are a number of Grade II listed buildings neighbouring the site, as mentioned above, but none located within the application site’s boundaries.

4.04 The application site falls outside the Built-Up Area Boundary of Faversham as defined in the adopted Local Plan.

4.05 The land lying to the south of the site, beyond the M2, is an area defined as a Special Landscape Area (see Policy E9 of the Local Plan)

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4.06 The Kent Downs Area of Outstanding Natural Beauty is located less than half a mile to the south-west of the application site, to the south of the M2.

5.0 POLICY AND OTHER CONSIDERATIONS**5.01 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.

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

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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, 2nd 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”.

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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.”

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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.

5.02 Swale Borough Local Plan (SBLP) (2008)

The following policies of the adopted 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 for Members 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

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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 up to 2016 that has already been exceeded.

In particular Policy E6 is significant. 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.”*

5.03 Bearing Fruits 2031, Submission Draft – April 2015

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.

The current draft follows further consultation to now arrive at the version submitted for independent examination in April.

The document is now at a relatively advanced stage in the overall process that will culminate, following independent scrutiny by a Planning Inspector (scheduled to start in November 2015), in the adoption of a new Local Plan. As such, its policies can be afforded some weight (in accordance with NPPF Paragraph 216, which I quote above) in the assessment of a planning application such as this. Members will note that the extent of this weight

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derives not just from the stage that the emerging Local Plan has reached, but also to the level of objection to a particular policy and also to the degree of compliance with NPPF policy.

However, it is considered 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."

- 5.04 The adopted Supplementary Planning Documents 'Developer Contributions' (2009) and 'Swale Landscape Character and Biodiversity Appraisal' (2011) are relevant to this application.

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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.

5.05 As Members may be aware, the **Faversham Town Heritage, Landscape Setting and Characterisation Study** has recently been published. It has been produced in support of the emerging Local Plan and is pertinent to this application.

- Section 2 reports that the mid 19th century saw further expansion of the town into the surrounding fruit orchards and hop fields largely to the south.
- Section 2 identifies that piecemeal suburban development along the A2, coupled with the diversion of traffic away from this road to the M2 motorway, has begun to weaken the past and current role and legibility of this route as a clear line between town and country.
- The study identifies the area to the south and east of Faversham as 'Faversham and Ospringe Fruit Belt'. It states that the area's condition is good and its sensitivity is 'moderate'. It reflects that farming practises have been eroded with the late 20th century expansions of farmsteads and the loss of traditional farm buildings.
- It considers that development on the south side of the A2 has served to dilute the appreciation of the character and function of the road as a transition from urban fringe to rural open landscape. Furthermore, the study states that noise and heavy traffic of the road networks have impacted negatively and further eroded the former rural character.

5.06 **Applicant's Response to the Faversham Town Heritage, Landscape Setting and Characterisation Study**

'Historic Development of Faversham Town

- *Section 2 of the Turley report outlines origins and subsequent development of the town. This discussion is in accordance with the consideration of the same issue in the Historic Growth and Heritage section of Chapter 3 of the Perry Court Farm Design and Access Statement (DAS). This section presents a series of figures illustrating the growth of the town from the 19th century to the modern day, which broadly accords with Figure 2, Historic Phases of Faversham, of the Turley report (see comment in para 4.8 below).*

The Heritage Assets

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- *Section 3 of the Turley report is a statement of fact regarding the designated and nondesignated heritage assets within Faversham. This accords with the baseline conditions sections of Chapter 13, Historic Environment, of the Perry Court Farm Environmental Statement (ES), although this chapter does not consider the heritage assets within the whole Faversham.*

Landscape Character (written by FPCR)

- *Chapter 4 of the Turley Study seeks to explore and understand the setting of Faversham town by describing the surrounding landscape character. Within this brief review, the findings of chapter 4 are appraised and cross referenced with chapter 6 of the Perry Court ES and DAS in order to highlight any contradictions. With reference to the Perry Court ES Chapter 6. The extent of study area considered by the Turley report and the ES chapter are broadly similar. A minor point of difference is that the ES chapter studies a 5km diameter area, with slightly more emphasis on the southern portion of Faversham due to the document's focus on the context of the Perry Court site. In comparison, the Turley study considers a 6km diameter area which focuses on the centre of Faversham. A review shows that both the Turley study and ES chapter follow the same 'Guidelines for Landscape and Visual Impact Assessment (Third Edition)' which is recognised good practice guidance. The landscape character baseline considered within the ES chapter accords with the scope of character assessment within the Turley report. More specifically, both documents consider the following detailed landscape character assessments that cover the study area at a range of scales:*

The Landscape Assessment of Kent;

Swale Landscape Character and Biodiversity Appraisal;

Urban Extension Landscape Capacity Study.

In summary, the Turley study and ES chapter broadly concur on the extent of study area and guidance methodology. The two documents agree on the levels of landscape sensitivity for all the landscape areas jointly identified. Review of the Turley study shows that the Perry Court site falls wholly within landscape character areas that are identified as being within the lowest category of 'sensitivity' (see Turley study tables 4.1 – Eastern Fruit Belt, table 4.2 - Faversham and Ospringe Fruit Belt, table 4.3 – study area 5, and Figure 8 – Swale Character Area 20). The Turley study collates information and stops short of making recommendations. However, in the context of the Perry Court site, the Turley study highlights that Perry Court is located in the least sensitive landscapes that form part of Faversham's setting'.

6.0 LOCAL REPRESENTATIONS

- 6.01 A petition with 565 signatures has been received objecting to the proposed development – requesting that the application be refused.
- 6.02 290 letters of objection have been received from the local area and may be summarised as follows:

Traffic and Pollution

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- Enhanced traffic problems, especially since the approval of the expansion of the Brogdale Gardens and development of the Greenways sites which are already going to add to the problem.
- The Ashford Road (A251), A2, Brogdale Road and The Mall are already dangerous, at capacity and cannot handle further increased volumes of traffic. The proposed traffic lights will not satisfy the problem.
- There has been a consultation on the existing traffic problems here, as yet without resolution. The additional developments can only worsen this.
- Road users already use the small country lanes in the area like “rat runs” to try and avoid the traffic problems on the A251, A2 and Brogdale Road. This will only worsen and is dangerous to the road users themselves, cyclists, joggers and walkers.
- Brogdale Road is too narrow for the current volume of traffic with vehicles often not being able to pass each other.
- The existing pedestrian footpath is dangerous, poorly lit and poorly maintained. Added traffic will make this more dangerous, and added pedestrian activity will mean that accidents are more likely.
- An already poor air quality during peak times will further decline. The air quality in Ospringe has already been officiated as being below Government set levels at times.
- Access between the M2 junction and the junction with the A2 will cause “chaos”.
- The construction period will see an increase in traffic, especially of vehicles like heavy goods lorries.
- The need for pedestrians to cross the A2 will be dangerous. Pedestrian access to the town will be difficult.
- Noise and light pollution in both the construction and from the new development itself once inhabited.
- Road users already using narrow country lanes to avoid the current volume at traffic, at the risk of walkers and cyclists.
- Following any incidents on the M2, traffic often backs up here in complete gridlock.
- Already an extra 250K predicted visitors to Brogdale Farm once the Gardens are up and running

Environment

- Objection to the development of a greenfield site which is also high grade agricultural land (is this not against Government and local policies)
- Loss of agricultural land which is surely required for farming for the ever increasing population.
- Agricultural land not subject to a flood risk should be retained. The loss of this will increase the flood risk for the new development and the existing population in Faversham.
- Loss of countryside walks currently in the area
- Loss of fields and hedgerows and associated wildlife, including indigenous birds such as woodpeckers and pheasants and bats.
- The drainage system already at capacity and the plans make no mention of major additions or improvements

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- Destruction of the rural nature of the area and the rural outlook of the existing residents. There is no mention of putting up foliage etc. to reduce the overlooking of residents. The land that the proposal is on is higher than the surrounding land and so overlook would be a serious problem.
- Overshadowing of the properties on Ashford Road which currently have a rural outlook over the landscape.
- There are other more suitable brownfield sites identified within the borough, for example the Nova site, Lady Dane, Norton Garden Centre, The Old Brickworks. Why are greenfield sites being used over brownfield?
- Land south of the A2 was not designated as an area for development in the Local Plan and will eventually lead to the loss of Faversham's boundary.
- Close to areas of Outstanding Natural Beauty to the south.

Identity

- Development of Faversham southwards of the A2 will set a precedent for future development and Faversham will begin to lose its identity as a market town.
- It will turn Faversham into a conventional town, losing its heritage and medieval history as a result.
- The proposal is out of proportion to the compact nature of Faversham
- Fears that Faversham will become an urban sprawl such as that seen in the Medway Towns and Sittingbourne.
- Loss of the ancient market town

Proposed Hotel & Care Home

- There is no evidence for the need of a Care Home which would be isolated from the town on the "wrong" side of the A2.
- Location of the hotel would make it a stop over location with no benefits for Faversham.
- Independent B&Bs and shop owners in Faversham will lose clientele.
- Gypsy sites already in existence at Painters Forstall – why the need for more? This will cause tension amongst residents.
- There is a vacated Care Home due to be developed near the town library, why the need for another?

Proposed Dwellings

- Concerns that a housing development of this size could create a "ghetto" effect in the area.
- The new housing estate will not be able to merge with the wider Faversham community.
- An undesirable location due to the noise that will be heard from the M2, despite noise abatement fences.
- Detrimental effect on Faversham's housing market as property values will decline (backed up by local estate agents).

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- The application makes no reference to Affordable Housing which is as the top of the Government’s agenda and is a prime concern – less and less young people are able to successfully apply for mortgages.

Local Services

- The Abbey School will be surrounded by traffic on all sides which will be a danger to students.
- Increased pressures on all local schools which are already at capacity, as there is the potential for hundreds of additional school age children.
- There is already a general lack of amenities for children
- Surrounding hospitals (Medway and East Kent) are already unable to cope with demand
- Public transport, especially train services, is an already an issue. Buses will be caught up in the gridlock.
- Detrimental impact on the gravity fed water supply in Ashford Road – would the whole water and drainage system require a major overhaul?
- Waste water plant at capacity
- GP surgeries and dentists already at capacity, e.g. currently waiting 2-3 weeks to see a Doctor
- The fire station and other emergency services are already obstructed during busy periods
- Loss of another public footpath from The Abbey School to Brogdale Road

6.03 Applicant’s Response to the Objection Letters Received

Previous Scheme (Refused)	Current Scheme
Up to 315 homes	Up to 310 homes
11,875 sqm of B1a floorspace	11,875 sqm of B1a floorspace
3,800 sqm of B1b floorspace	3,800 sqm of B1b floorspace
2,850 sqm of B1c floorspace	2,850 sqm of B1c floorspace
Hotel (3,250 sqm) – up to 100 bedrooms	Hotel (3,250 sqm) – up to 100 bedrooms
Care Home (3,800sqm) – up to 60 rooms	Care Home (3,800sqm) – up to 60 rooms
Local Convenience store of 200 sqm	Local Convenience store of 200 sqm
0 gypsy pitches	3 gypsy pitches
Vehicle and pedestrian access from Ashford Road and Brogdale Road	Vehicle and pedestrian access from Ashford Road and Brogdale Road
15.05ha of land for open space	15.2ha of land for open space

Principle of Development

- *Sustainable location*
- *Accessible to public services and facilities*
- *Key facilities within 400- 800 metres include leisure, open space, retail, primary and secondary school and healthcare facilities*
- *Well located to London, strategic road network*

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- *Support town centre retail and leisure businesses*
- *Maximum height of 3 storey for whole site – (3 storey for employment and 2-2.5 storey for housing, and 2 storey for the care home and hotel)*
- *Transition zone between the urban area of Faversham and undulating farmland and orchards of the Special Landscape Area to the south of the M2.*
- *Section 106 financial contributions will be sought by SBC for other services such as GP, Doctors and dentist appropriate to the scale of the development.*

It is worth noting the applicant has met with the South East Regional Design Panel on 5th November 2013 who supported the approach of an employment led mixed use community that responds to historic field pattern and utilises existing hedgerow. Several comments were raised and have been addressed through the proposed design.

Housing

- *No five year housing land supply*
- *Recent Appeal Decision upheld for development south of the A2: Brogdale Road*
- *Increase supply of affordable housing in line with policy requirements*
- *35 dph and maximum of 2 - 2.5 storey based on character study of wider area*
- *2.5 storey housing will help define key views, corners and junctions*

Amenity

- *Strategically sited hedgerows, trees and shelter belts to soften built form and frame views*
- *Vegetation with local provenance and use of orchard and shelter belt planting will help reinforce the local fruit belt*
- *2 storey development proposed along Ashford Road*

Employment

- *Attractive location for employment due to proximity to M2 with direct access from M2 – especially in terms of accessibility and visibility for branding*
- *Creation of an attractive working environment with courtyard style offices*
- *A deliverable employment site unlike other allocated sites within the adopted Local Plan which have not come forward*
- *Future trends indicate increased demand for new business space in Faversham for B1 offices, R&D and clean tech space*
- *Hotel will support business community and visitor economy*
- *996 – 1070 jobs would be created from the employment associated uses.*
- *Address out-commuting issues to other areas such as Canterbury for work by providing jobs at Faversham*
- *111 construction jobs will be created over the development period*
- *Overall will assist in ensuring sustainable development by matching job growth to the growth of the working population*

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- *The masterplan reserves 2Ha of land for future employment use should it be required – this is already accounted for however in the 15.2Ha of Public Open Space quoted.*

Hotel

- *Emerging LP identifies that there are a small number of hotels, pubs with guest rooms, guest houses and bed/breakfast establishments at Faversham*
- *Increased hotel provision will reinforce Faversham as a visitor/ tourist destination*
- *The hotel can complement the proposed employment offer*

Care Home

- *Ageing population location – needs for additional accommodation to meet growing demand*
- *Anticipated (HPF Briefing July 2012) that by 2033 within the UK – 60% of all new household growth will be those aged 65 with 21% over 85.*
- *Draft Local Plan identifies in the number of elderly households and at paragraph 5.3.12 identifies that: “as part of allocations or on windfall sites in sustainable locations, the policy CP3 will support proposals for development of retirement accommodation, residential care home, close care, extra care and assisted care housing and continuing retirement communities.”*
- *The existing care home provision may not meet specific needs or have operational issues which explains the vacancies.*
- *The care home also complements the proposed employment offer*

Open Space

- *Connected green spaces comprising areas of informal recreation for play and habitat creation for site wide biodiversity gain*
- *New trees, woodland, hedge, meadow and wetland*
- *Formal footpaths*
- *Allotments and community orchards*
- *Shelter belt planting*
- *2 equipped play areas*
- *Policy compliant*

Historic Character and Development South of the A2

- *Enables Faversham to continue to grow organically – next logical place for growth is South of the A2;*
- *The A2 does not define the character of the town nor has it restricted existing development.*
- *A reliance on the A2 as a boundary to development will artificially force further growth in a east to west direction that will change Faversham from a compact settlement to a less sustainable and uncharacteristic settlement.*
- *Reinforces Faversham’s compact settlement pattern and grow in the most sustainable direction;*

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- *Grow Faversham in areas that have existing urban and 'urban fringe' influence; and*
- *Utilises land that provides a direct connection to the M2 and does not require the use of the A2 or associated junctions to access the motorway.*
- *Council undertaking work on the historic development and character of Faversham to inform the Local Plan process and the most appropriate locations for new development.*
- *No Listed building is proposed for demolition. N.B Local residents could be referring to the Malthouse/Oasthouse which is Grade II listed, outside the red line boundary and will be retained. The proposals will enhance the landscaping green buffer between the building and the proposals. There is an (extant) planning permission for a large rack facility between the Malthouse/Oasthouse and the site. The supporting heritage assessment considers that development of the facility would cause less than substantial harm to the heritage significance of the asset. The supporting Heritage Assessment to this application states that there will be negligible direct effects on the designated heritage asset.*

Transport

A Transport Assessment has been submitted to support the application and the development will result in minor adverse impact on road network although mitigation proposed will result in a negligible impact. Mitigation includes:

- *Pedestrian crossings – pelican crossing across Ashford Road.*
- *Signalisation between Ashford Road and London Road*
- *Improvements to pedestrian and cycle facilities*
- *Cycle track to the south side of the A2 running parallel to the A2 to the junction with Brogdale Road.*
- *Proposals in line with parking standards for each element of the proposals so unlikely to be on-street parking pressure in immediate area.*
- *Improvements to M2 Junction 7 through S.106 contributions*

Air Quality

- *An AQA has been submitted which concludes that the required air standards for residential development are met. Some minor effects from construction dust although mitigated through appropriate controls.*

Agricultural Land

- *Proposed development does involve the use of an area of best and most versatile agricultural land*
- *Para 112 of the NPPF requires 'where significant development of agricultural land is demonstrated to be necessary, LPA's should seek to use poorer quality agricultural land in preference to higher quality land.*
- *Faversham lies in a belt of very high quality agricultural land – on all sides by Grade 1 land.*
- *In accommodating development needs of Faversham, it is inevitable that higher quality land will have to be used given the small supply of low quality agricultural land wherever it is placed*

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- *It is consistent with national policy to use the lower quality land within the category of best and most versatile land which would direct development to the south, rather than to the west or east of the town.*

Flood Risk

- *Site is within Flood Zone 1 so very low risk of flooding.*
- *Infiltration facilities included to treat storm water without adversely affecting local foul drainage and river network*

6.04 **Sheldwich, Badlesmere and Leaveland Parish Council** have written in support of the planning application. They state that Faversham is in need of a hotel and the additional employment opportunities the development will create. They state that the proposed road improvements will mean that Porters Lane will cease to be a *'rat run' – 'pleasing parishioners'*. They also state that the *'notion'* of anything being built south of the A2 is *'outdated'* if Faversham is to *'grow and thrive'* and *'any building off the Western Link is detrimental to Ospringe until there is a link to the M2'*.

6.05 The **Faversham Society** raises an objection to the development stating that the proposals would be south of the A2. They acknowledge that the 2008 Local Plan does not include a five year Housing Land Supply, but highlight that it contains policies resisting development south of the A2. This would harm the character and setting of the town of Faversham. They state that, unlike Brogdale Road, the site is not surrounded by other housing developments and the access into the site is likely to result in substantial additional traffic. They also state that the proposed development is likely to set a precedent for further development and the introduction of a bund on the south side of the development will result in the loss of important views from the motorway towards the town, revealing its urban character set across open fields.

6.06 **Faversham Town Council** initially raised no objection to the principle of the proposals – accepting the proposals for access onto Ashford Road but reserving any judgement on any access onto Brogdale Road. They state that, at this stage, they had serious concerns with some aspects of the proposal including the mix of uses and the scale of the development.

However, further correspondence has since been received from **Faversham Town Council** raising an objection to the principle of the development, after having reconsidered the application. Their objections are:

- The density of the proposed development is excessive and would detract from the landscape setting of Faversham and further blur the distinction between the suburban character of Faversham north of the A2 and the rural area to the south. The line of the A2 is a key feature and provides a clearly defensible edge to the town.
- The proposed development would result in a significant increase in traffic on Ashford Road, Brogdale Road and on the rural lanes to the south of Faversham – having an adverse impact on air quality in Ospringe Street.

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- The proposed development would result in the loss of a significant area of Grade 1 agricultural land.
 - The proposals do not take into account the emerging local plan which is now in the process of determination.
- 6.07 **Ospringe Parish Council** raises an objection to the proposals. They state that though only a small part of the site falls within their parish – the development would have a significant impact upon it's residents. They state that the development would result in the loss of prime agricultural land and is not 'zoned' for housing within the Local Plan – that there is no 'overriding need' for this development and is premature in nature given the forthcoming public examination of the emerging Local Plan. They state that this applies to the employment 'justification' of the proposals too. They state that the applicant has not 'heeded' the proposed housing and employment schemes at Brogdale Road and Love Lane, for example – which would deliver the needed housing and employment for the Faversham area. It is considered that the Brogdale Road Development Appeal Decision should not set a precedent in considering the current application. In addition, the Parish Council considers that the proposals will have an adverse impact upon traffic in the area – exacerbating the existing severe conditions – creating additional pressures on the existing road networks. The development would apply additional pressure on the rural and semi-rural roads, which, run through Ospringe and adversely affect the air quality of the locality. The pedestrian footway is 'sub-standard'. In addition, the Parish Council state that the development would add further pressure to local schools and GP services. They state that the development is 'over-large' and 'poorly positioned' being south of the A2 adversely affecting the 'special character' of Faversham.
- 6.08 A letter from '**Idealworks**' has been received raising an objection to the proposed gypsy pitches as part of the development. They state that this will create '*dis-harmony and bad-feeling*' amongst the surrounding businesses and homes within this community.
- 6.09 A lengthy letter received from '**Countryside Under Threat (CUT)**' raises objections to the proposed development. They state that the proposals will be contrary to the adopted planning policies as set in the Adopted Local Plan. The proposal would detract from the rural character and appearance of the local area. The proposals would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham. It is acknowledged that the Council cannot supply a five-year housing sites and therefore the policies may be deemed as out of date, and that the Council must address this issue. They state that the site is best and most versatile agricultural land and that the proposal will involve a significant loss of this land, and states that the Council has recently identified other good quality agricultural land in the area for development. A question is raised as to whether enough gypsy pitches are proposed – given that most families like to live together in small family groups, and whether this site is the best location for this. Additionally, it is stated that, the application will have an adverse impact on the rural character of Brogdale Road and the rural approach to

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Faversham along the A251, and, the air quality of the area will be affected from the additional traffic created from the development.

- 6.10 A letter received from the **MP for Faversham and Mid Kent – Helen Whately** neither opposes or supports the proposed development, but wishes to highlight various issues and attaches some local resident's letters that had been sent to her. These issues include:
- increased traffic on the A2, Ashford Road and Brogdale Road.
 - The effects of the proposals upon local services, such as schools and GP surgeries.
 - The connectivity with the town and transport sustainability – including lack of crossings for pedestrians and poor public transport and cycle provision, making cars the main mode of transport for residents.
 - The urbanisation of Brogdale Road and the impact on the setting of the Grade II listed Malthouse and Oasthouse.
 - Building on a greenfield site and consequent loss of good agricultural land. Extending Faversham beyond its traditional boundary by building south of the A2.

Helen Whately, MP states that, the safety for pedestrians and cyclists in the area should be paramount – particularly with the Brogdale Road development being allowed on Appeal and the impact of this development in addition to, the proposed development. She further states that she has been made aware of the wider concerns of building south of the A2 extending Faversham beyond the traditional urban boundary, and, that good farming land will be lost. Finally, she states that should the development go ahead, that it does so with adequate provision of infrastructure.

7.0 CONSULTATIONS

- 7.01 **Southern Water** raises no objections to the proposed development. The condition and informative they have requested are included below. Among other things, they note that “...*there is currently inadequate capacity in the local network to provide foul sewage disposal to service the proposed development...additional off-site sewers, or improvements to existing sewers...*”
- 7.02 The **Environmental Protection Team Leader** raises no objection to the proposals in terms of noise and land contamination recommending conditions to mitigate any contamination that may be found during construction. He however states that, the methodology used within the report accompanying the application, relating to Air Quality is ‘*outdated but difficult to argue against judging purely by the evidence supplied*’. He concludes, ‘*a more accurate study of the evidence provided by the Ospringe AQMA and using a more modern and acceptable modelling tool such as ADMS Roads would have been superior and perhaps more likely to come to the conclusion which is that this area already suffers from significant traffic congestion particularly on the A2, and that proposals of this size will only make it worse.*’

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- 7.03 Since these comments were received – there has been further liaison with the Environmental Protection Team Leader. It is therefore anticipated that further comments will be received, relating to Air Quality management – with a view to seeking a Contribution within the S106 Agreement. This will be reported to the Members at the Planning Committee meeting.
- 7.04 **Historic England** raises no objection to the proposed development. They recommend that the application takes into account *‘the possible effects on those aspects of Faversham’s urban form that contribute to its heritage significance as one of Kent’s foremost historic towns’*. They continue to add that, *‘the application site is separated from the town by the open grounds of the Abbey School, and, ‘suggest that the impact on the conservation areas is unlikely to be so serious as to make this the key factor in determining this application’*. They conclude by recommending that the application takes into account the surrounding setting of the Grade II listed Perry Court Malthouse and Oasthouse.
- 7.05 **Scotia Gas Networks** raises no objection to the proposed development but states that the applicant needs to be aware that there are SGN HP pipelines within the site and as such there are restrictions and as such, recommend several conditions, listed below, to mitigate these issues.
- 7.06 The **Kent County Council Ecologist** raises no objection to the proposal. They set out detailed measures to ensure that birds, bats and reptiles are safeguarded if the development goes ahead. The conditions they have requested are included below. They state that they are satisfied with the level of species surveys which have been carried out as part of the proposed development.
- 7.07 The **Health and Safety Executive** have written (further to the PADHI+ exercise conducted by Council officers) confirming that their advice is to advise ‘against’ the development as, it is *‘unclear where building ends as it is covered by trees – measurement needs clarifying’*.

It is also stated that, *‘the pipeline goes through the site, however the properties/buildings do not seem to be situated on the actual gas pipeline, at present I have said that the site falls within the inner, middle and outer zones, however it is unclear how close the closest building is measuring as there are trees positioned over the building on the site layout plan. It could possibly measure 9 metres away resulting as being situated within the inner zone or 10 metres which would mean it would fall within the middle. I think usually in this instance the officer would ask the developer to clarify the exact distance from the pipeline.’*

- 7.08 The PADHI+ exercise conducted by the local Authority stated:
‘The pipeline goes through the site, however the properties/buildings do not seem to be situated on the actual gas pipeline, at present I have said that the site falls within the inner, middle and outer zones, however it is unclear how close the closest building is measuring as there are trees positioned over the

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building on the site layout plan. It could possibly measure 9 metres away resulting as being situated within the inner zone or 10 metres which would mean it would fall within the middle.'

- 7.09 The **Environment Agency** raises no objection to the proposed development. The conditions and informatives they have requested are included below.
- 7.10 **South East Water** raises no objection to the proposed development. They state that the development site is entirely within Groundwater Source Protection Zone 1 underlain by the Thanet Sand Formation (a Minor Aquifer) and a Principal Aquifer (the Chalk) and is therefore vulnerable to groundwater contamination. An informative requested is set out below.
- 7.11 **Kent Police** raises no objection to the proposed development and acknowledges that their previous comments to the earlier application have been incorporated into this current outline planning application.
- 7.12 **UK Power Networks** raises no objections to the proposed works.
- 7.13 **Kent County Council's Public Rights of Way Officer** raises no objection to the proposal. He identifies that the existing public right of way [ZF18] is identified as the main route expected to be used for pedestrian access to the town centre, and therefore if permission is granted, a contribution to improving the surface of the path between the new service road and the existing A2, to a value of **£21,450** be provided. Additionally, a condition is recommended and listed below, relating to the diversion of the footpath where it will be directly affected by the proposed allotments and gypsy and traveller pitches.
- 7.14 **Highways England** raises no objection to the proposed development. They state that the Strategic Road Network i.e. M2 [and the A2 east of Brenley Corner] may be impacted by the proposals upon the safe and efficient operation of the SRN. It is therefore recommended that should permission be granted, conditions should be applied to the consent which require the applicant to enter into a Section 106 Agreement (to which Highways England is a partner), to provide a contribution towards a proposed Highways England signalised junction scheme, or other equivalent improvement to the benefit of M2 junction 7, prior to the commencement of construction on site. The total contribution sought for mitigation at M2 junction 7 is £260,000. The amount sought from the current application is £187,200 – proportionately split between it and the Love Lane development [reference SW/14/0045].
- 7.15 **The Council's Housing Officer** raise no objection to the development. They request that 30% of the dwellings (93 dwellings, if the full 310 dwellings were developed) to be affordable housing, in accordance with the emerging Local Plan. They state that, *'the affordable homes offered should be reasonable and proportionate mix to the open market homes across the site.'* They confirm that there is a requirement for affordable housing in Faversham for all types and sizes of accommodation. With regard to the proposed care home, they

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question whether evidence has been submitted to demonstrate a need in this area.

- 7.16 **The Council's Rural and 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.

7.17 **Applicant's Response to the Agricultural Consultant's Comments**

'Having quoted paragraph 112 of the National Planning Policy Framework (NPPF), the RPL letter concludes that:

"Clearly in principle this development would fall foul of the NPPF advice regarding the economic and other benefits of the best and most versatile agricultural land, as it would comprise "significant development of agricultural land" and (even if shown to be necessary) it is not a development that seeks to use an area of poorer quality land in preference to that of a higher quality (Grades 1, 2 or 3a).

The issue that then arises (which is a matter for the Planning Authority) is whether, notwithstanding, there are sufficient other arguments in the overall balance to override Government advice as to protection of the best and most versatile agricultural land (along with overriding any other adverse implications of the scheme)."

Following a response from Reading Agricultural Consultants (RAC) in March 2014, the RPL email of 14 April 2014 concluded that:

"The cogent point is that this is accepted as being a "significant development of agricultural land". NPPF para 112 therefore requires consideration of a) is it necessary and if so b) has it sought to use an area of poorer quality land in preference to higher quality. Question a) is not something I can comment on, but the answer to question b) is plainly "no". Therefore, as I see it, para 112, per se, is not complied with under this proposal. Whether or not that is an overriding consideration in determining the application, depends on all the other factors that have to be weighed in the overall balance."

However, the advice from RPL does not reflect policy as set out in paragraph 112 of the NPPF. It is accepted that the proposed development will involve the use of a significant area of best and most versatile agricultural land but

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that, in itself, does not make the proposal contrary to policy in paragraph 112 of the NPPF.

The policy is that, where significant development of agricultural land is demonstrated to be necessary (and no comment is made by RPL on the need for the development), local planning authorities should seek to use poorer quality agricultural land in preference to higher quality land.

However, whilst local planning authorities will be aware of the guidance in paragraph 112 and will seek to use poorer quality agricultural land for necessary development, there may be any number of reasons why they would not be able to use such land because, for example, poorer quality land might not be available to use in the right locations or might include other attributes that the local planning authority would want to preserve. It is also important to acknowledge that the advice in paragraph 112 that poorer quality land should be used ahead of higher quality land refers to all grades of agricultural land, and does not preclude the use of the best and most versatile agricultural land. Thus, if there is a real choice between the necessary development of areas of Grade 1 and Grade 2 land, the Grade 2 land should be used ahead of the Grade 1 land, even though both fall within the category of the best and most versatile land. Paragraph 112 does not prohibit the use of the best and most versatile land for development, as implied by the RPL responses.

Faversham lies in a belt of very high quality agricultural land. The Provisional Agricultural Land Classification (ALC) map, which is acknowledged by Natural England to be suitable only as general guidance, shows that the town is surrounded on all sides by Grade 1 land, except on the marshland to the north.

The former Ministry of Agriculture, Fisheries and Food (MAFF) carried out detailed ALC surveys of certain sites around Faversham, and the results are now shown on magic.gov.uk and on the attached plan (the sites surveyed in detail are shown bordered in red). Whilst the results of these surveys are more variable than suggested by the blanket grading of the Provisional ALC map, they also confirm the high quality of agricultural land in the vicinity of the town, other than on the marshland to the north.

RAC has supplemented the detailed ALC results with an interpretation of published soils information (Soil Survey of England and Wales (1980), Soils of Kent) in the light of the ALC guidelines to produce a predictive ALC map of the land around Faversham. This shows substantial areas of the highest quality land associated with Hamble series soils to the west and east of the town, lower quality land on the marshlands to the north and more mixed quality of agricultural land to the south.

It is apparent therefore that, in accommodating the development needs of Faversham, it is inevitable that development will have to use best and most versatile land and that there is not a ready supply of developable poorer quality agricultural land available that is not best and most versatile quality. It

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is also apparent that development to the west and east of the town will involve the loss of higher quality land than it would to the south, where agricultural land quality is more variable.

Therefore, the local planning authority does not have to demonstrate that there are sufficient other arguments in the overall balance to override national policy on the development of best and most versatile agricultural land, as suggested by RPL. There is no ready supply of poorer quality agricultural land that is not best and most versatile quality that is developable and could be used to accommodate the development needs of Faversham. Therefore the use of best and most versatile agricultural land to accommodate the development needs of Faversham is consistent with national policy. It is also consistent with national policy to use the poorer quality land within the category of best and most versatile land which should direct development to the south, rather than to the west or east, of the town.'

7.18 Kent County Council's **Development Contributions Officer** 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:

	Per 'Applicable' Flat (('Applicable' being over 56sqm)	Per 'Applicable' House (('Applicable' being over 56sqm)	Grand Total for proposed 310 dwellings
Primary Education (New primary school construction)	£1500	£6000	£1,860,000
Secondary Education	£355.87	£1429.49	£443,141.90

	Per Dwelling	Grand Total for proposed 310 dwellings
Community Learning	£43.35	£13,438.5
Youth Service	£55.55	£17,220.5
Libraries	£230.09	£71,327.9
Adult Social Care	£262.94 & Delivery of 6 Wheelchair accessible homes as part of the affordable housing	£81,511.4
Broadband Condition:	Before development commences details shall be submitted (or as part of reserved matters) for the	

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	<p>installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential, commercial and community. This shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process.</p> <p>INFORMATIVE: The BT GPON system is currently being rolled out in Kent by BDUK. This is a laid fibre optical network offering a single optical fibre to multi point destinations i.e. fibre direct to premises.</p>	
Highways	Kent Highway Services will respond separately	

Primary School Provision

The impact of this proposal has been assessed on the existing Education service in Faversham. This development is significant giving rise to up to 87 additional primary school pupils during its occupation. Existing Primary schools in Faversham have reached their maximum capacities, and to meet the demands of this additional impact, a new Primary School is required in Faversham.

Secondary School Provision

The proposal gives rise to additional secondary school pupils during occupation of this development. This need can only be met through the extension of existing Secondary School accommodation within the locality. The contributions from this development will be allocated towards the first phase of expansion of the Abbey School in Faversham.

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There is an assessed shortfall in provision for this service. The County Council will mitigate this impact through the provision of additional classes and equipment at Faversham Adult Education centres.

Youth Services

The service caters for young people from 11-25 though the prime focus is on hard to reach 13-19 year olds. Due to the scale of this proposed development there is no capacity locally to accommodate the 14 new youth service attendees generated by the development. To mitigate this impact, the County Council will commission additional Youth services and equipment to meet the additional demand arising from this development.

Libraries

The impact of the development will be mitigated by County Council with the provision of additional book-stock and equipment at Faversham Library which is local to the development.

Adult Social Care

Facilities for Kent Social Care are fully allocated and the new development will result in a demand upon social services. Therefore additional funding is sought to mitigate the impact of the proposal through the provision of a changing place facility in Faversham. In addition, 6 wheelchair accessible homes are sought to mitigate the impact of the development upon social services.

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. 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.

- 7.19 **Kent Highways Services** initially issued a holding objection, pending the concerns raised to the originally submitted Transport Assessment. However, following receipt of the Transport Technical Response from the applicants, the Highways officer is now satisfied that appropriate mitigation measures have been determined with the applicant in accordance with the responses contained within the "Transport Technical Response to KCC's highways and transportation department".

The Highways officer states that the following will need to be conditioned:

- Footpath provision to site frontage along Ashford Road and provision of a pedestrian crossing over Ashford Road (the type of which is likely to be controlled and will be discussed with KCC at detailed design stage).
- **A contribution of £300,000** from developers to support the junction improvement works to the A251/A2 junction to be provided by KCC or for

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developers to submit a traffic signal scheme for approval and then to carry out the works under a Section 278 Road Agreement. Contribution towards works to be held for 10 years from date of 1st occupation.

- Brogdale Road footway to be improved as per Technical Note dated 19/8/15 (by Brookbanks).
- Bus contribution to be a total of **£300,000** to be paid at annual intervals of £100,000. Trigger point to be agreed with the developer.
- Parking to be as per IGN3 Residential Parking Standards and SPG4 for non-residential uses.
- Existing public right of way within the site to be upgraded to a bridleway with surface improvements and any necessary improvements to enhance security for users to allow both pedestrians and cyclists to use it. If this is not achievable then the developers will provide a footway/cycleway to the south side of the A2 between Brogdale Road and Ashford Road.
- Developers will provide vouchers towards sustainable travel in the welcome pack of each household to the value of - 1 or 2 bed unit - **£50** 3 bed unit - **£75** 4 or more bed unit - **£100** This is to offset the traffic impact on The Mall since the scale of necessary improvement works would not be proportional to the impact generated by Perry Court. Further junction improvement works will be explored by KCC Highways.
- Junction improvement works to Brogdale Road/A2 to be carried out to include pedestrian refuge, dropped kerbs and tactile paving (as per Technical note 19/8/15).

In addition, the Highways officer requests standard conditions should also be applied to the development and are listed below.

- 7.20 The **National Planning Unit** raises no objection to the proposed development.
- 7.21 The **Swale Footpaths Group** state that *'as a footpaths group we confine our comments to footpath issues. I note that ZR 18 would remain on its present route. There would be houses and a site for travellers nearby. Were consent granted there would need to be a clear separation of the path from both. We would certainly be concerned for the safety of walkers if ZF 18 had to be shared with motor vehicles or even, unless widened, cycles. The legal status of and responsibility for upkeep of any new paths, cycle tracks etc. will need to be clearly established at the outset.'*
- 7.22 The **Lower Medway Internal Drainage Board** raises no objection to the proposed development stating that, *'This site is located outside of the IDB's district and provided that off site surface water runoff rates are not increased beyond that of the Greenfield site, the proposed SuDS is maintained for the*

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lifetime of the development and the Environment Agency's guidance is followed in respect of pollution prevention, IDB interests should not be affected by this proposal.'

7.23 The **Kent Wildlife Trust** raises an objection to the proposals. It states that the Habitats Regulations Assessment Screening Report (Environmental Statement Appendix 7.6) *'quite rightly draws upon the North Kent Coast Bird Disturbance Report as the best available evidence. We note that it does not dispute the findings of this, and states "...increased cumulative disturbance from residents of the proposed Perry Court/Love Lane/Ore Gravel Works developments using The Swale for recreation is, in the absence of mitigation, significant."* (Para 5.61). The HRA report then goes on to refer to the 'Thames Basin Heaths Joint Strategic Partnership Board Delivery Framework' stating *"Whilst this plan relates to areas adjacent to the Thames Basin Heaths SPA and not to The Swale, its proposals for the measures required to avoid impacts of recreation and urbanisation on designated sites can be assumed to translate to other designated sites likely to be impacted by increased recreational visits."* This is used as justification for the mitigation proposed; an area of Suitable Alternative Natural Greenspace (SANG) as part of the development. We consider the mitigation proposed to offset the increased recreational impact on the SPA inadequate for the following reasons:

- 1) *Rather than support the mitigation measures proposed in the application, the Delivery Framework referred to shows these proposals to be inadequate.*
- 2) *We consider it highly unlikely that the SANG proposed will counteract the draw of the coast as it is of significantly different character, and it is more likely that a SANG will be less effective at this location than those in example used (the Thames Basin Heaths).*
- 3) *Given that the area proposed as a SANG is currently arable, it is likely to be some time before it reaches a level of quality necessary to be considered a SANG. There are a number of features that contribute to making a Suitable Alternative Natural Greenspace, and while the guidance produced has been created in the context of the Thames Basin Heaths, it appears that the applicant has not assessed their SANG against these guidelines.*

However, they further state that, The North Kent Environmental Planning Group has been working on a Strategic Access Management & Monitoring Strategy, equivalent to the 'Thames Basin Heaths Joint Strategic Partnership Board Delivery Framework' referred to by the applicant. The applicant has the option to contribute to this to mitigate the impact of the development on the SPA.

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'On review, it is considered that further to the proposed on-site green open space, additional mitigation measures to limit the potential for increased recreational pressures on the SPA are required. At the time of writing the ES Chapter the Strategic Access Management & Monitoring Strategy (SAMM) produced by the North Kent Environmental Planning Group (NKEPG) had not yet been formally adopted. Conversations were held on 8th July 2015 with Natalie Earl at Swale Borough Council (SBC), who is part of the NKEPG responsible for the SAMM. As a result of this communication, it was accepted that, while this document has not yet been formally agreed by all council bodies making up the NKEPG, a financial contribution towards the SAMM for the monitoring and management of the SPA, of a suggested tariff of £223 per unit dwelling would mitigate for any potential increase in recreational pressure on the SPA. It is proposed that this approach form the basis of mitigation, in addition to the provision of on-site green space.

As mentioned above, as the SAMM was not a formalised document at the time of writing, mitigation measures were based on those strategies which FPCR are familiar with, such as the Thames Basin Heath, where onsite SANGs were provided to decrease residents need to travel outside of the development for recreational opportunities. It is accepted that the draw of a coastal environment cannot be replicated within a site with green space, and that mitigation measures more specific to that SPA are needed. As previously mentioned, a financial contribution will therefore be made towards the SAMM for the management and monitoring of the SPA.

It was accepted that the proposed on-site open green space would require a substantial amount of remediation works and planting to create the desired 'natural' green space, which will take a number of years to successfully establish. However, a financial contribution to the SAMM will help to alleviate additional recreational pressure on the SPA during the interim and even once the green

open space is established. A management strategy for the site will be provided at reserved matters stage, providing full details of the habitats to be created within the green open space and to highlight the specific features that needed to be created

A number of conversations were held with Mr Hitchcock on receiving the objection letter; the first on 3rd July whereby FPCR clarified the reasons for objections were purely on the grounds of insufficient mitigation measures for the SPA, during this conversation it was suggested that the NKEPG be contacted to ensure that specific mitigation for the proposed development could be addressed. On the 8th July the NKEPG SAMM was reviewed with the aid of Natalie Earl at SBC and it was agreed that the most appropriate form of mitigation for the potential recreational impacts, would be the financial contribution towards the SAMM for the monitoring an management of the SPA. Although the final tariff system per house is yet to be confirmed, it is likely to be around £223 per dwelling, which will be collected by the SBC

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through a Community Infrastructure Levy. Mr Hitchcock was again contacted on 8th July whereby FPCR confirmed that after reviewing the SAMM and subsequent conversations with Natalie Earl that the most appropriate form of mitigation for the potential recreational impacts, would be the financial contribution towards the management and monitoring of the SPA, as outlined above.

A confirmation email from Mr Hancock was received on 10th July, which states "I can confirm that should the applicant agree to make a contribution to the Strategic Access Management and Monitoring Strategy, at a tariff to be agreed with the LPA, Kent Wildlife Trust's concerns would be dealt with. We would be happy to withdraw our objection formally once this resolution has been made with the LPA." A copy of this email has been provided with this letter.

As a result of the continued cooperation with Kent Wildlife Trust, the objection issues have been reviewed and appropriate measures taken, which will ensure appropriate management and monitoring does occur within the SPA as a result of the proposed development at Perry Court London Road Faversham. In terms of the submitted Environmental Statement, the conclusions therein remain unchanged.

Whilst mitigation in relation to effects on the SPA now includes a contribution to the SAMM, this does not alter the findings that there would be no likely significant effects on the SPA. The queries raised in the Kent Wildlife Trust response do not alter the assessment or warrant the provision of further environmental information or evidence within the meaning of Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, as amended.'

- 7.25 **Natural England** raises no objection, but gives 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). The application site is located approximately 1.6km south of The Swale Special Protection Area (SPA) and Ramsar site. They note the submitted HRA assessment from the applicant and state that the local authority note that the proposal is not necessary for the management of the European sites, be subject to appropriate financial contributions being made to strategic mitigation, and provision of onsite greenspace as proposed, the proposal is unlikely to have a significant effect on these sites, and can therefore be screened out from any requirement for further assessment. They also recommend that an appropriate financial contribution should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and this strategic mitigation will need to be in place before the dwellings are occupied.

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- 7.26 **Southern Gas Networks** raises no objection to the proposed development. It highlights that there are high pressure pipelines in close proximity to the application site and are of prime importance to the gas supplies in this area. They therefore advise that, should any work be contemplated, all works should comply with set restrictions and as set out in document T/SP/SSW22 in order to protect the plant and equipment and for the safety of the on site operatives.
- 7.27 **CPRE Protect Kent** raises an objection to the proposed development and recommends refusal. They have provided a lengthy representation in opposition to the proposed development. The issues raised are summarised as follows:
- This application is a deliberate attempt to pre-empt and undermine the emerging Local Plan, and thus the plan-led approach, by seeking to secure the development of a site that is not allocated for development in the adopted Local Plan and which has been rejected by the Council for inclusion in the new Local Plan.
 - Given the advanced state of preparation of the Local Plan we consider that the application should be refused for being premature. The National Planning Practice Guidance (NPPG) clarifies the circumstances in which prematurity can be used.

Location and Sustainability

'The site is detached, and some distance from, the defined built-up-area of Faversham as defined on the Proposals Map of the SBLP. It would see built development extend southwards to the M2 Motorway, extending to nearly 1km distant from the defined built-up boundary. In policy terms, the proposal comprises significant and large scale development in the open countryside contrary to the provisions of saved Policy E6 of the SBLP.

The detached location of the site also makes the site an unsustainable location for development in terms of its relationship to the services that residents will need to access in Faversham. It will inevitably mean that access to local services will be achieved primarily by use of the private motor car. In particular the need to cross and negotiate the increasingly busy A2 to gain access to the railway station and town centre will militate against pedestrian and cycle use. Consequently, the site would not help to promote the use of sustainable modes of transport, especially walking and cycling, as demanded by paragraph 35 of the NPPF, Policy SP1 of the SBLP and Policy DM6 of the submitted Local Plan.

The NPPF seeks to ensure that development is sustainable, and it explains in paragraph 7 that sustainable development has three roles – economic, social and environmental. The proposal fails to bring the necessary environmental gains demanded of sustainable development, and in fact results in environmental losses.

The site comprises some 30 hectares of greenfield land. The approval of this application would undermine the Council's ability to achieve this important

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planning principle, and environmental gain, by pre-empting strategic decisions on the location of future major development in the Borough generally and at Faversham in particular.

The Site also comprises land that is in agricultural (arable) production. The Natural England mapping of agricultural land shows all the land on the southern side of the A2 at Faversham as being grade 1 in quality. Therefore, by virtue of its detached location in the open countryside and the significant loss of best and most versatile agricultural land, the proposal does not comprise sustainable development as required by the NPPF. It fails to ensure the most effective use of land to meet the future development needs of Faversham and it involves the use of land of best and most versatile quality when alternative land of lower quality is available.

Character of Faversham and its Landscape Setting

Faversham is a small historic market town contained by the A2 to the south, the Western Link to the west, Love Lane to the east and by the Swale estuary and marshes to the north. As shown in the Swale Landscape Character and Biodiversity Supplementary Planning Document (SPD) 2011, the site together with the other land south of the A2 falls in the Faversham and Ospringe Fruit Belt character area. This character area extends further to the south, beyond the M2 Motorway, and links into the designated North Downs Special Landscape Area (SLA) and the Kent Downs Area of Outstanding Natural Beauty (AONB). The development of this open site, as proposed in the application, will have a profound effect on the countryside and landscape setting of Faversham in this location. It will introduce built development into an area which currently has a continuity of landscape type from the town to the AONB, and it will sit on the bottom of the gentle dip slope of the Downs.

Development Needs

The application proposes a range of development, but essentially it is being promoted on the basis of the employment and housing benefits that it would bring to the town. Fundamentally, the application is seeking to pre-empt the proper consideration of the future development needs of Faversham through the Local Plan process by asserting that there is an urgent need to boost housing supply in Faversham, and in the Borough as a whole. In particular the application is being 'legitimised' by the applicant's claim that the Borough does not have a five year housing land supply as demanded by paragraph 47 of the NPPF.

Transport Issues

There are a number of transport issues that we would raise:

A251/A2 Junction: The applicant states in paragraph 1.6 of their planning statement that "as part of the off-site highways works proposed, a signalised junction is to be provided..." at the junction of the Ashford Road (A251) and the A2. It is our understanding that this scheme is already being progressed by the County Council and that it is needed to address current transport congestion issues, not traffic issues arising from the application site.

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Brogdale Road: One of the two access points to the site will be on Brogdale Road. This is described as the secondary point of access, with the main point of access being onto the Ashford Road (A251). However, with all the development areas linked by the on-site road network (see Fig 3.2 'Development Masterplan' in the applicant's planning statement) is it impossible to say with certainty what access point will be used by residents, workers and visitors as the 'main' point of access. As a result of this development, between the A2 and the M2 the character of Brogdale Road will fundamentally change to one that is urban in character. Impact on the A2: Clearly traffic from this site will feed onto the A2 at both Ashford Road and Brogdale Road. The A2 is a road that is already operating at above capacity especially, but not entirely, at peak hours. It will be likely that there will be rat-running through the site itself as people look for a short-cut to the Motorway from Brogdale Road to avoid the A2.

Impact on Air Quality

The stretch of the A2 through Ospringe, roughly that part of the road falling in the Ospringe Conservation Area, has been designated an Air Quality Management Zone. The designation, made in 2011, was made because of the heavy traffic volumes using the A2. We believe that this development will increase the air quality problem at Ospringe as a result of more traffic on the road.

Sustainable Transport

As we have explained already, development in this location militates against sustainable transport options. It is poorly served by public transport, and the A2 acts as a strong barrier to pedestrian and cycle movements. We note the positive comments made by the applicant about the provision of pedestrian and cycling links, but we do not believe that these will actually help to facilitate pedestrian and cycle movements in any meaningful way.

Listed Building

The Malthouse and Oasthouse at Perry Court Farm is a grade 2 listed building. This is described in the listing as "a fine building of its kind". As a farm building its association historically is with the surrounding countryside and farmland, and whilst some residential development/conversion has occurred within the farm complex this historical association currently remains. The proposed development will remove this and thus undermine the listed building designation.

Application SW/13/1567

This outline application for 63 homes on a site off Brogdale Road was allowed on appeal in May 2015. However, the Council should not take this decision as setting a precedent for further development south of the A2, as each application must be considered on its own merits. The Inspector's conclusions on the Brogdale Road application cannot automatically be taken to apply to the Perry Court site. There are stark differences between the two applications, not least the size and nature of the development proposals. It is also the case that the Brogdale Road application at least adjoined the built-up area

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boundary whereas the Perry Court Application is detached from it, with development proposed much further to the south of the A2.

Conclusion

The application should be refused because:

- *it is premature given the advance stage of preparation of the new Local Plan and the strategic scale of the development proposed.*
- *The proposed development fails to recognise the different roles and character of the different areas of Swale as set out in policies TG1 and FAV1 of the adopted SBLP, contrary to paragraph 17 of the NPPF.*
- *The proposed development, due to its location, scale and form, will not represent sustainable development as it fails to seek positive improvements across the three dimensions as required by paragraphs 7-9 of the National Planning Policy Framework 2012. The proposals do not achieve the presumption in favour of sustainable development as the adverse impacts of development would significantly and demonstrably outweigh any benefits.*
- *Impact on the setting of the Grade 2 listed Malthouse and Oasthouse at Perry Court Farm'.*

7.28 The **Kent County Council SUDS Team** raises no objection to the proposed development but states that it would have expected the final draft of the FRA to have been amended to reflect the change of circumstances prior to submission, we would like to take this opportunity to state that KCC will not be responsible for the adoption of any proposed SuDS scheme. The suggested conditions required are listed below.

7.29 The **NHS Property Services** raises no objection to the proposed development. It states that, inevitably, any increase in the local population has a knock-on effect in terms of health care and NHS Property Services Ltd would seek to apply this s106 contribution to meet these extra demands placed upon the local primary and community health service. In terms of this particular application, a need has been identified for contributions to support the delivery of investments highlighted within the Strategic Service Development Plan. These improvements to the primary care infrastructure will enable support in the registrations of the new population, in addition to the commissioning and delivery of health services to all. This proposed development noted above is expected to result in a need to invest in a number of local surgery premises:

- Faversham Health Centre
- Newton Place Surgery

The above surgeries are within a 1 mile radius of the development at London Road. This contribution will be directly related to supporting the improvements within primary care by way of extension, refurbishment and/or upgrade in order to provide the required capacity.

The application identifies unit sizes to calculate predicted occupancy multiplied by £360 per person. When the unit sizes are not identified then an assumed occupancy of 2.34 persons will be used.

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For this particular application the contribution has been calculated as such:

Predicted Occupancy rates	Total number in planning application	Total occupancy	Contribution sought (Occupancy x £360)
2.34	310	725.4	£261,144
1.4	60	84	£30,240
		TOTAL:	£291,384

NHS Property Services Ltd therefore seeks a healthcare contribution of £291,384, plus support for our legal costs in connection with securing this contribution. This figure has been calculated as the cost per person needed to enhance healthcare needs within the NHS services.

7.30 **Scotland Gas** raises no objection to the proposed development.

7.31 The Local Authority's **Tree Consultant** raises no objection to the proposed development. He states that though the application is at outline stage, the masterplan shows the retention of most of the existing vegetation which what appears to be 'good building distances' from the site boundary trees and hedges. Therefore, provided the applicant's are mindful of the safe integration/protection of the existing vegetation on site then no objection is raised. The recommended conditions are listed below.

8.0 BACKGROUND PAPERS AND PLANS

8.01 The planning application is supported by the following documents:

- Design and Access Statement
- A Planning Statement
- A Statement of Community Engagement
- An Economic Benefits Statement
- A Swale Borough Objective Assessment of Housing Need
- A Faversham Settlement Specific Assessment (of Housing Need)
- A report on The Contribution to Economic Development
- An Assessment of Faversham's Historic Growth
- A Sequential Assessment Report
- A Sustainability and Energy Statement
- A Service Supply Statement
- An Environmental Statement Non-Technical Summary
- An Environmental Statement Volume 1
- An Environmental Statement Volume 2 – Appendices
- An Environmental Statement Volume 3 – Transport Assessment

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8.02 The following plans have also been submitted to support the application:

Drawing Number	Drawing Title
5187-PL-01 Rev B	Redline Plan
18201 OGL Rev 0	Topographical Survey
5187-PL2-02 Rev B	Illustrative Layout
5187-PL02-03 Rev -	Parameters Plan
5187-PL02-04 Rev -	Development Masterplan
10182/HL/01 Rev A	Proposed Signal Junction Ashford Road/ Canterbury Road
10182/HL/02 Rev -	Proposed Roundabout Ashford Road
10182/HL/03 Rev -	Proposed Junction Brogdale Road

9.0 APPRAISAL

Principle and Justification of Development

9.01 Members may firstly note that, the application is a resubmission of a similar scheme last year, [under SW/14/0015], which was refused in June 2014. The reasons for refusal were as follows:

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

b. 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

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(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 fulfil 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).’
- 9.02 Members will also note that the site is not specifically allocated for development in the Adopted Local Plan 2008. It will therefore be necessary to consider whether the conflict with Adopted Local Plan is out-weighed by other considerations, sufficient to justify the granting of planning permission. Members will also note the emerging Local Plan Bearing Fruits 2031, which has been submitted to the Secretary of State so that a Public Inquiry may be held, it can – in accordance with the NPPF, which deals with the weight to be given to relevant policies in emerging plans – be afforded significant weight. In addition, it will also be necessary to consider why, after a year, the planning application now should be considered more favourably.
- 9.03 The NPPF (paragraph 47) includes a requirement that, in order to significantly boost the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing. In addition, paragraph 47 of the NPPF requires that local planning authorities should 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% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing a 20% buffer should be applied.
- 9.04 In addition, it is significant to note that paragraph 49 of the NPPF confirms that housing applications should be considered in the context of the presumption in favour of sustainable development in accordance with paragraph 14 of the NPPF. Paragraph 49 of the NPPF also establishes that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
- 9.05 It is important for Members to note that the Local Planning Authority is unable to demonstrate a five year supply of deliverable housing sites against the annual requirement of the adopted Local Plan and the annual requirement of

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its draft Local Plan (December 2014). The current figure is 3.17 years and is calculated on the basis of the 'Sedgefield' methodology. As required by the NPPF, a buffer of 20% should be applied by the Local Authority, where there is a persistent record of under supply. Accordingly, since Swale are unable to demonstrate a five year supply of deliverable housing sites (against the requirements of the adopted Local Plan), then its relevant policies for the supply of housing may be considered as out of date (consistent with paragraph 49 of the NPPF).

- 9.06 A recent appeal decision, dated May 2015, concerning land at Faversham (PINS ref: APP/V2255/A/14/2224509), known as the Brogdale Road/Brogdale Place, Faversham Appeal (attached as Appendix 1) - confirms the Inspector's conclusions that:

"On the basis of the housing requirement contained within the adopted SLP the Council accepts that within the Borough there is 3.17 years of housing land supply and a shortfall of 1,437 dwellings. These figures include a 5% buffer and take account of the shortfall of dwelling completions in accordance with the Sedgefield method."

- 9.07 It is also pertinent to the current application to note that, within the emerging Local Plan, other new housing developments within the Faversham area are identified. These include:

- From the Faversham Creek Neighbourhood Plan – 103 dwellings;
- Land at the Western Link – 240 dwellings;
- The Oare gravel workings – 300 dwellings;
- Lady Dane Farm – 200 dwellings
- Land at Ham Road – 35 dwellings;
- Bysingwood Primary School – 15 dwellings; and
- Faversham Police Station – 12 dwellings.

The total number proposed therefore is 905 dwellings in Faversham. In contrast, the Settlement Specific Assessment demonstrates a need for at least 2,226 new dwellings at the town between 2011–2031. This level of under provision would result in an unmet need of at least 1,321 dwellings at the town. However, it is not known when or if, some or all of these developments will come forward for consideration in the near future and therefore it is apparent that more housing is needed in the area. Subsequently, this has led to the allocations set within the emerging Local Plan to be reassessed recently, and, it is very possible that extra allocations of housing land may need to be identified and secured. However, though this is of some significance to the currently proposed scheme, and does have some bearing - it does not prejudice the outcome and the proposals are considered on their own merits.

- 9.08 In the past, there has always been a public presumption that any development south of the A2 in Faversham would be resisted. Members will note that this is not the adopted policy of the Local Planning Authority. However, this has been called into question very recently, since the publication of the

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Faversham Town Heritage, Landscape Setting and Characterisation Study, and, the Appeal decision of Brogdale Road/Brogdale Place dated May 2015. The Local Authority may no longer presume that all development south of the A2 will be refused permission without substantiating harm being demonstrated.

- 9.09 The 'Brogdale' appeal, for 63 dwellings was allowed and the Inspector dealt with the issue of the site being south of the A2. Paragraph 22 of the Inspector's report establishes that:

"Historically, Faversham has mainly developed to the north of the A2. As a result the Council argues that development to the south of the A2 should not be allowed as it fails to respect the historical development and form of the town. From the material submitted and the discussion at the Hearing I am unclear as to why the historical development of Faversham and its current form is seen as being so significant that it merits protection. In reaching this view I am mindful that the historic core of Faversham lies some distance to the north of the A2 whilst a considerable amount of the land to the north of the A2 is occupied by housing estates of more recent origin. Furthermore there is already existing development south of the A2 including housing and a large secondary school and associated playing fields."

- 9.10 The 'Faversham Town Heritage, Landscape Setting and Characterisation Study', published in June 2015, specifically chapter 6, states that the A2 is a key feature of the local area having formed a boundary between the town and the wider countryside. With the expansion of the town in the 1930s, the section of the A2 to the north of Perry Court Farm would no longer have been passing through open countryside and has been incorporated into the edge of the built up area of the town. With the construction of the Abbey school in the 1960s, its expansion and the construction of the M2 in the 1970s, the A2 has effectively become incorporated into the urban area of the town in the vicinity of Perry Court Farm. As a consequence, in the area of Perry Court Farm, the A2 ceased being the edge of the urban area during the 1960s and 1970s.
- 9.11 The report further clarifies that the distinction between urban and countryside has been 'dulled' in some areas by modern development south of the A2. In heritage terms, due to the historical phase of development being clearly identifiable, the A2 is still a key readily identified heritage feature whose relationship to the historic core can still be appreciated despite the breaching of its line by existing development. The development of land to the south of the A2 will not reduce further the contribution that the A2 makes to the significance of Faversham. The report also demonstrates that Faversham has spread south with the arrival of the railway and lead to the A2 becoming incorporated into the town and in the Perry Court farm area, this process has continued south of the A2, leading to the M2 to effectively replace the historical role of the A2 as the main arterial route passing to the south of the town.

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- 9.12 Significantly, one of the main factors for consideration in this case, as was in the previously refused application, is the loss of the agricultural land. As noted above, one of the main reasons for refusal of the previously submitted scheme was based on the loss of the best most versatile land of high grading. Clearly in principle this development would fall foul of the NPPF advice regarding the economic and other benefits of the best and most versatile agricultural land, as it would comprise “significant development of agricultural land” and (even if shown to be necessary) it is not a development that seeks to use an area of poorer quality land in preference to that of a higher quality (Grades 1, 2 or 3a).
- 9.13 The issue that then arises is whether there are sufficient other arguments in the overall balance to override Government’s advice as to the protection of the best and most versatile agricultural land - along with overriding any other adverse implications of the scheme. The main point now is that this is accepted as being a significant development of agricultural land. NPPF para 112 therefore requires consideration of a) is it necessary and if so b) has it sought to use an area of poorer quality land in preference to higher quality. Therefore, para 112 of the NPPF, per se, is not complied with under this proposal. However, this is now not the overriding consideration in determining the current application, and is dependant on all the other factors that have to be weighed in the overall balance.
- 9.14 It is accepted that the proposed development will involve the use of a significant area of best and most versatile agricultural land but that, in itself, does not make the proposal contrary to policy in paragraph 112 of the NPPF. The policy is that, where significant development of agricultural land is demonstrated to be necessary and local planning authorities should seek to use poorer quality agricultural land in preference to higher quality land. It is also important to acknowledge that the advice in paragraph 112 that poorer quality land should be used ahead of higher quality land refers to all grades of agricultural land, and does not preclude the use of the best and most versatile agricultural land. Thus, if there is a real choice between the necessary development of areas of Grade 1 and Grade 2 land, the Grade 2 land should be used ahead of the Grade 1 land, even though both fall within the category of the best and most versatile land. Paragraph 112 does not prohibit the use of the best and most versatile land for development, as implied by the RPL responses.
- 9.15 Faversham lies in a belt of very high quality agricultural land and is surrounded on all sides by Grade 1 land, except on the marshland to the north. It is apparent therefore that, in accommodating the development needs of Faversham, it is inevitable that development will have to use best and most versatile land and that there is not a ready supply of developable poorer quality agricultural land available that is not best and most versatile quality. It is also apparent that development to the west and east of the town will involve the loss of higher quality land than it would to the south, where agricultural land quality is more variable.

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- 9.16 Therefore, it is clear that there is no ready supply of poorer quality agricultural land that is not best and most versatile quality that is developable and could be used to accommodate the development needs of Faversham. The use of best and most versatile agricultural land to accommodate the development needs of Faversham is subsequently consistent with national policy. It is also consistent with national policy to use the poorer quality land within the category of best and most versatile land which should direct development to the south, rather than to the west or east, of the town.
- 9.17 With regard to the previous reason for refusal relating to the lack of provision of pitches for gypsy and travellers within the development site, this has now been addressed by the applicant. The current proposals have incorporated three gypsy and traveller pitches to be located within the proposed 15.2 hectare open space/landscaped area in the south-western quarter of the site, adjoining the proposed allotments. As such, it is considered that this satisfies the previous refusal reason and is acceptable.
- 9.18 Therefore, as a result of these new opinions and considerations since the refusal of the previous planning application, the current planning application may firstly, confirm that the Local Planning Authority does not have a set policy of a 'blanket' refusal of development south of the A2 in Faversham, and, dismiss public perception that development should be resisted south of the A2, secondly, be considered as sustainable development for the area of Faversham – being the best location with it's ease of road network connectivity.
- 9.19 Additionally, as the Local Planning Authority are no longer able to demonstrate a five year supply of deliverable housing sites (against the requirements of the adopted Local Plan), then its relevant policies for the supply of housing may be considered as out of date (consistent with paragraph 49 of the NPPF). Subsequently, the circumstances that form part of the determining factors in considering the current planning proposals have significantly altered since the refusal of the previous scheme, and therefore, the current proposals are generally considered acceptable in principle and justifiable.

Requisite for Development**B1 Floorspace**

- 9.20 Policy ST2 of the Emerging Local Plan Bearing Fruits 2031 demonstrates that the Local Planning Authority is seeking to plan for the delivery of 7,053 jobs over the Plan period (2011 – 2031), equating to 353 new jobs per annum. The strategy for the provision of employment sites at Faversham is to seek to improve the quality and availability of sites and there is a recognised need to reduce the level of out-commuting from the town.
- 9.21 The provision of employment development at Perry Court will, in its own right, stimulate economic growth (as will the construction of the development). In

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considering the objectives of the Emerging Local Plan, the Applicant notes that employment land at Perry Court, Faversham will help to reduce out-commuting, provide employment opportunities in an area which is acknowledged to have relatively high levels of unemployment and provides the opportunity to 'widen' the economy. Furthermore, the provision of employment floorspace will ensure that there is an improved quality of employment sites available at Faversham which are in the right location.

9.22 Providing employment development at Perry Court ensures that it is provided in a location which is attractive to employers. None of the other sites being considered for development of this type at Faversham can provide that benefit. These include:

- The land between Ashford Road and Salters Lane (to the south of Faversham);
- Land at Lady Dane Farm, east of Love Lane (to the east of Faversham);
- The Oare Gravel Workings Site (to the north of Faversham);

9.23 The need for employment land required at Faversham is highlighted by Wessex Economics as being influenced by several factors. Firstly, as Wessex Economics note, the importance of bringing sites forward with strong market appeal is demonstrated by the failure of sites previously allocated for employment uses to come forward. For example, the site at Western Link, Faversham has long been allocated for such uses, but they have not been delivered. The emerging Local Plan now proposes that the Western Link site be released for residential uses. Wessex Economics demonstrate that a site with direct access to the M2 will be easier for staff and clients to access than a town centre location, particularly since staff are likely to come from the labour catchment around Faversham.

9.24 The emerging Local Plan now seeks to rely on significant employment being delivered at the Lady Dane Farm site,. As Wessex Economics demonstrate, there are significant concerns raised in relation to the Council's reliance on this site. Wessex Economics highlight that the Lady Dane Farm site is clearly an 'inferior' location to Perry Court for a number of reasons, including:

- Access to the M2 is indirect either via Love Lane, the A2 to the west, then Ashford Road; this involves crossing a narrow railway bridge;
- Alternatively access to M2 can be achieved via the A2 to Junction 7 again involving crossing the railway bridge; or via the Graveney Road to the Thanet Way and then to the M2;
- Whichever access option is preferred, access to the M2, while not time consuming, is indirect, and this would be a disadvantage in marketing the site to potential occupiers;
- The site has no visibility to and therefore would not put Faversham on the business map of Kent in the same way as Perry Court; and
- The site would not credibly have the potential to attract hotel development, which adds to the mix of uses and appeal of a B1 business park.

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- 9.25 In comparison, the Perry Court site is well positioned to attract a range of employment uses to Faversham, including office uses, R&D and clean technology businesses since:
- The site provides direct access to/from Junction 6 of the M2, which means that the site will appeal to occupiers who have a client base or operations across north Kent and mid Kent and either need to travel out on business or have people come to their offices;
 - There is scope for a high profile development benefitting from visibility from the M2. Many businesses want to be located somewhere with name recognition and a brand. Being located on a business/technology park that people know about is a real benefit. Perry Court can be effectively branded by virtue of its location, scale and visibility;
 - It will be possible to deliver ancillary development at Perry Court, notably a hotel, restaurant and convenience store because of its proximity to the M2. These ancillary uses reinforce the brand of the business park and provide additional services to occupiers. Other suggested employment sites in Faversham would not attract hotel development; and
 - Perry Court lends itself to the creation of an attractive working environment. The proposed built form is based on the creation of a series of courtyards and use of vernacular themes to create a quality environment which encourages interaction between businesses and their employees. Established planting will be reinforced by further planting and open space is to be provided to the west of the business area.

Housing

- 9.26 As discussed above, it is evident that there has been a shortage of housing delivered in recent years, highlighting the need for the supply of housing to be boosted significantly. This is particularly evident in the Faversham area, and with the Local Planning Authority not being able to demonstrate a five year housing land supply – all housing developments proposed must be considered, on its merits, but more objectively.
- 9.27 It is evident therefore that the proposed development will provide a valuable contribution towards the need for additional housing within the Borough as a whole and at Faversham itself. There has been a shortage of housing delivered within the Borough over recent years and the proposed development will contribute to reducing the extent of that shortfall. As a result the need for the proposed development is in accordance with paragraph 47 of the NPPF.
- 9.28 The delivery of 30% of the dwellings as affordable housing is also to be welcomed, and will significantly boost the supply of such housing locally.

The Hotel

- 9.29 The Emerging Local Plan Bearing Fruits 2031 identifies Faversham as needing to widen its development as a local tourism and cultural centre. Paragraph 4.1.11 of the Emerging Local Plan highlights that, Faversham has

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strong potential to diversify its economy around tourism. For example, to its location and proximity to other tourist centres at Canterbury, Whitstable and Herne Bay. It is therefore clear that the Emerging Local Plan establishes support for enhancing the tourism 'offer' of Faversham, not only as a result of its proximity to other destinations, but as a destination to visit in its own right. Furthermore, the development of a hotel at Faversham will also assist with the objective of widening the economy of the town and will provide further employment opportunities in an area which is recognised as having relatively high levels of unemployment.

- 9.30 Increasing the availability of hotel accommodation at the town will assist in establishing Faversham as a visitor and tourism destination in its own right, and as a location from which surrounding tourism destinations can be reached. Furthermore, locating the hotel alongside the proposed employment uses allows the potential for linked visits to be generated.

The Care Home

- 9.31 In addition to the requirements of paragraph 47 of the NPPF, paragraph 50 should also be noted since it highlights the need for Local Planning Authorities to plan for a mix of housing based on current and future demographic trends; market trends; and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes).
- 9.32 It is evident from the context set out within the Emerging Local Plan that the local area will experience an ageing population and that specific provision should be made to support the accommodation needs of such groups. In particular, it highlights that provision of care accommodation will be supported. The references within the ELP to an ageing population are supported by SBC's own evidence base. For example, the NLP 'Strategic Housing Market Assessment Update and Development Needs Study' (March 2013) states at paragraph 3.9 that: "If such population trends continue, Swale will see an increasingly ageing population, with particular implications around delivering housing for the elderly." This also sets out the types of accommodation that would be required in order to serve the elderly population and highlighted the likely need for care homes to be provided.
- 9.33 It is clear that there is an identified ageing population within Swale Borough. It is inevitable that as the population ages, there will be a need for a proportion of that population to receive care. The proposed development, including a care home of up to 60 beds, will clearly help to meet that need.
- 9.34 Furthermore, it is considered that the development of a care home at Faversham will form part of the objective of widening the economy of the town and will provide further employment opportunities in an area which is recognised as having relatively high levels of unemployment.

APPENDIX 1 (Def Item 31.03.16)**Visual and Landscape Impact**

- 9.35 An assessment has been undertaken, by the applicant, of the likely significant effects of the development on the environment with respect to landscape and visual issues. The site is located on the southern edge of Faversham, south of the A2 and bordering Junction 6 and the east bound carriageway of the M2 motorway and is located outside the Built-Up Area Boundary of Faversham, and outside of the confines of the Faversham Conservation Area, and is an area defined as a Special Landscape Area. To the north of the A2, the landscape is defined by the urban edge of Faversham. To the south of the A2, linear development, comprising large detached residential dwellings, fringe Ashford Road and limited stretches of Brogdale Road. The site itself comprises several regular shaped cultivated field parcels bounded by 'gappy' hedgerows, isolated mature trees and groups of trees. Field parcels are defined in a north south direction by clipped hedgerow vegetation, which gives way to remnant hedgerow to the south of the Site.
- 9.36 The site is bordered by roads on three sides, these include: Brogdale Road to the west; the M2 motorway to the south, and Ashford Road to the East. The remaining northern boundary adjoins The Abbey School, the garden of Perry Court and business centre based out of the Malthouse and Oasthouse (Grade II listed) – neither of which are located within the application site's boundaries. In addition, it is noted that, The Kent Downs Area of Outstanding Natural Beauty is located less than half a mile to the south-west of the application site.
- 9.37 It is considered that, neither the AONB nor SLA will experience significant harmful effects as a result of the development throughout the construction and operational phases. The neighbouring Conservation Area will experience the highest degree of effect which will occur only during the construction phase and has been identified as Moderate/Slight Adverse. It is noted that the application site falls wholly within the northern portion of 'Landscape Area 20: Faversham and Ospringe Fruit Belt' as described by the 'Swale Landscape Character and Biodiversity Appraisal'. A finer grain of landscape character is provided by the 'Swale Urban Extension Landscape Capacity Study', which places the Site is entirely within 'Study Area 5 – South West of Faversham'. The study describes how: "To the south and east of Faversham... the landscape has a moderate capacity to accommodate change. Here the landscape is physically and visually contained by vegetation belts and in places by the landform."
- 9.38 It is noted that, the site itself will all experience Major/Moderate Adverse overall effects during the construction phase of Development, which is deemed significant, but these effects would be mitigated as the phased construction progresses and be temporary only. Similarly, during operational phases of Development visual effects will be at worst Major/Moderate Adverse within the first year of development of the site. This degree of effect will be experienced by users of the public right of way that crosses the Site, residents of Perry Court and residents of houses fronting Ashford Road.

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However, it is anticipated that, towards the end of development of the site, the overall visual effects for all receptors are no higher than Moderate Adverse for residents of houses fronting Ashford Road, users of the public right of way and residents of Perry Court, as mentioned above. This is not assessed as significant and is due, in part, to the maturing of new planting and weathering of materials used for the buildings.

- 9.39 Overall the site is visually well contained. It is worthy to note that of the total area 30.3 hectares of the application site, 15.2 hectares – approximately half the area – will remain ‘green’ and undeveloped. Views of the Development will be contained to the north by Faversham and so limited to the short and, to a limited extent, the medium distance where glimpsed views will be possible. To the east views will be possible along Ashford Road, however development fronting Ashford Road curtails views further east in the medium distance and long distance views will not be possible. To the south of the site, short distance views are possible, however, intervening vegetation prevents medium distance views from within Brogdale Farm, and the combined effects of vegetation and topography prevent long distance views from the AONB and SLA. Clear views towards the development from the west are limited to short distance receptors with medium distance views filtered by shelter belt planting. Long distance views from the west are not possible. In summary, receptors with the closest and clearest views towards the site will experience the most significant visual effects during the peak of construction activity, however, it should be noted that these construction effects will be of a temporary nature.
- 9.40 Following a commitment, from the applicant, to implement the mitigation measures as stated within the Environmental Statement and through the implementation of planning conditions, the proposed development could be readily assimilated into the landscape character of the wider area. Because the site is visually well contained, significant visual effects will be limited to a small number of receptors that lie within and front on to the boundary of the site and limited to the construction phase and first year of Development. Therefore, to summarise, it is considered that the proposed development cannot be resisted on account of potential visual and landscape impacts.

Residential Amenity

- 9.41 With regard to the impact of the proposals on residential amenities of the locality, it is noted that the Environmental Protection Team Leader raises no overall objection to the development. Though he states that the air quality in the area, *‘already suffers from significant traffic congestion particularly on the A2, and that proposals of this size will only make it worse.’*
- 9.42 An assessment has been undertaken, and described within the submitted Environmental Statement, of the likely significant effects of the development on the environment with respect to local air quality. Published data on air quality has been collected for the area surrounding the site. The traffic data for the Development, construction methodology and programme and outline

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Energy Strategy have been reviewed to determine the likely significant effects. The baseline conditions over the site are suitable for residential development since all current national air quality standards are met. There would be the potential for some temporary effects due to dust emissions during the initial construction phases, most particularly for existing dwellings located towards the northeast boundary of the site, but such effects would be mitigated through appropriate controls agreed with the SBC through the CEMP. Effects would be minor adverse at most and would be temporary. Traffic generated by the development would have imperceptible/negligible effects upon the air quality of existing receptors adjacent to the local road network.

9.43 In addition, an assessment has been undertaken, as detailed within the Environmental Statement, of the likely significant effects of the development on the environment with respect to noise and vibration. Baseline noise surveys were undertaken during the day and night at locations, agreed with the Local Authority, to determine the baseline conditions. It is considered that the baseline noise conditions over the site are suitable for residential development and relevant noise standards for new residential development would be readily achieved by way of 'routine' design measures at the detailed design stage (appropriate glazing etc.). There would be temporary minor noise effects for some existing dwellings located around the site during the construction phase, but such effects would be mitigated through mitigation measures set out in the CEMP and include the following:

- Selecting inherently quiet plant;
- The use, where necessary and practicable, of enclosures and screens around; noisy fixed plant;
- Limiting site work where possible to daytime hours; and
- Adherence to relevant British Standards.

9.44 No significant vibration effects are anticipated during the construction or operational phases, and, traffic generated by the development would have no significant noise impact upon existing receptors adjacent to the local road network. Therefore, to summarise, it is worth noting that the application is in outline and the reserved matters applications – to be submitted pursuant to planning conditions – will allow the Local Planning Authority to control the details of the layout, scale, appearance and landscaping of the development in order to ensure that an acceptable level of residential amenity is achieved, both for residents of the proposed development and, for those living in existing dwellings in the vicinity of the application site.

Design

9.45 The detailed design of the scheme will be considered at the Reserved Matters application stage. The illustrative design and layout of the scheme is described and justified within the submitted Design and Access Statement which accompanies this application. The Design and Access Statement demonstrates how the design of the development has evolved that an

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assessment has been undertaken of the area's context and characteristics and demonstrates how the proposal responds to this.

- 9.46 The built development around the periphery of the application site is designed in terms of appearance and massing in order to limit any impacts on the surrounding landscape. The proposed residential development at Perry Court will be accommodated at a density of approximately 35 dwellings per hectare, with a maximum height of 3 storeys. The design of these properties will be expected to provide a sense of proportion and scale in relation to the surrounding context and embrace sustainability principles. In addition, following the advice of the Local Authority's Design and Conservation officer, development currently proposed in the north-west corner of the site would be deemed as unacceptable in terms of its potential impact upon the setting of the Grade II listed Oasthouse building. It is therefore demonstrated that a scheme layout and design could be achieved without giving rise to significant adverse impacts.
- 9.47 The proposed employment development would provide an attractive frontage for users of the M2 as a key location to the gateway to Faversham. The built form will be arranged around formal courtyards and social spaces and located within an attractive landscaped setting. The proposed Care Home will be easily accessed from the main distributor road and will be well connected to Faversham and the wider development by foot and to destinations in the area through public transport services. The Care Home will largely be single storey around a central courtyard, set within attractive landscaped spaces. Additionally, the proposed Hotel has been positioned to take full advantage of its proximity to the M2 and the proposed employment land. The height of this building will be restricted to two storeys.
- 9.48 The site includes a substantial element of Green Infrastructure (even accounting for a further 2ha of employment land). Public open space will include formal footpaths, areas of amenity, allotments, community orchards and shelter belt planting. Two equipped play areas will be located centrally within the residential development and a mosaic of different spaces will provide for informal recreational activities and sport whilst offering additional habitat to enhance biodiversity and improve connectivity through and around the site.
- 9.49 Access into and around the site has been guided by a number of factors including existing vegetation; topography of the site; and existing public rights of way. The hierarchy of streets have been designed to ensure a clear and legible network of streets which are pedestrian friendly with footways and cycleways passing through generous green corridors.
- 9.50 Members will note that the Code for Sustainable Homes has been cancelled. Therefore, it is considered that the conditions included below that deal with sustainable design and construction will enable suitable measures to be incorporated in the development.

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- 9.51 An assessment has been undertaken of the likely significant effects of the development on the environment with respect to ecology. A separate report has also been completed to demonstrate that there would be no significant effects on the integrity of the nearby protected European sites as a result of the proposed development in accordance with the Habitat Regulations. This report is included as an Appendix to the ES. The majority of the Site is under arable cultivation which has resulted in other habitats being poorly represented, with low diversity and between negligible and local conservation value. The hedgerow networks have a poor structure and species content, with limited linkages through the site. These existing hedgerows will be retained and enhanced through additional planting, forming linkages with new hedgerow planting and associated greenways, which will include tree planting.
- 9.52 Tree groups are largely isolated to the western boundaries of the site along Brogdale Road. These will also be retained and strengthened with the additional woodland planting which will increase species diversity and canopy coverage. Further tree planting will be undertaken around the peripheries of the development and within residential areas, ensuring that natural linkages continue. The green infrastructure and proposed landscape enhancement measures would create a number of habitats which were previously absent from the Site. This includes new species rich hedgerows, species rich neutral grasslands, meadow grasslands, wild flower margins, water bodies, additional woodlands and a number of swales. Such mitigation and enhancement features will be included within the circa 15 hectares of green infrastructure.
- 9.53 A Green Infrastructure and Biodiversity Management Plan (GIBMP), as requested by the Council's Ecology Officer - secured through a planning condition will also ensure that habitats created and enhanced are managed appropriately to ensure optimal biodiversity is sustained into the future. The new green infrastructure and appropriate management would ensure that a moderate beneficial long term effect at a local level is achieved.
- 9.54 As habitats are poorly presented within the site, fauna was also largely absent or present in low numbers in isolated patches during the surveys. A low population of common lizards were present in three areas, which were narrow and isolated. All bat species encountered were common and in low numbers. The breeding bird species recorded within the site were abundant, common or numerous within the country and none were recorded in exceptional numbers. The reptiles, bat and bird assemblages were all valued to be of no more than local value.
- 9.55 The CEMP will ensure that best working practices are adopted during the construction phase; this includes any possible removal of vegetation is undertaken outside of the breeding season or under ecologists' supervision and the use of directional lighting during dusk hours. A reptile mitigation strategy and the CEMP will detail the methods needed to remove reptiles from the development footprint and also the habitats which need to be created

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before exclusion. These measures will ensure that the impacts of the development are negligible on existing fauna.

- 9.56 In addition, the GIBMP will ensure the habitats created and enhanced will increase Biodiversity, through successful and sustained management practices for specific habitats for faunal assemblages. Specific management measures will be adopted on; grassland habitats which will have cutting regimes tailored to suit specific areas of the site; water bodies optimised through maintaining ranges of micro-habitats and control of species dominancy; hedgerows cut/laid to ensure increased fruiting bodies and nesting/refuge potential for wildlife; and reptile reserves will have specific cutting regimes to optimise basking and refuge.
- 9.57 The mitigation and enhancement measures proposed within the Development will ensure that fauna which currently exist have habitats to sustain a favourable conservation status into the future, but also that the variety of habitats will encourage a wider range of wildlife species which are currently absent. The green infrastructure would substantially increase the habitat sustainability for a range of species, whereby there will be a moderate beneficial long term effect at a local level for existing and future colonisations of wildlife.
- 9.58 The report prepared to enable the Local Planning Authority to undertake a Screening exercise with the respect to the Habitat Regulations concluded that the recreational pressures on the surrounding statutory sites from the increase in residents from the development would have no significant effects on the integrity of the European designated sites, and that further planned mitigation and enhancement within the development would also reduce the need to visit such areas.
- 9.59 It is noted that, during the course of the application, Kent Wildlife Trust initially objected to some of the mitigation proposed as part of the development, stating that it did not go far enough to protect the ecology of the site. However, as described above (Paragraph 7.22), these objections have been withdrawn following discussions with the applicant to further mitigate the effects upon the SPA with development contributions towards the Strategic Access Management & Monitoring Strategy. Therefore, to conclude, it is considered that this is acceptable and will have no adverse effects resulting from the proposed development.

Highways

- 9.60 The proposed development has implications both for the Strategic Road Network (motorways and trunk roads) and for the local road network. The former are the responsibility of Highways England, and Members will have noted above that they raise no objection to the application subject to the payment of contribution towards the cost of works to re-configure Junction 7 of the M2. These improvements will be secured by a clause of the proposed

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Section 106 Agreement that will need to be entered into, in order for planning permission to be granted.

- 9.61 With regard to the local road network, Members will have noted the comments of Kent Highways Services above, and the highway-related comments from local residents and other interested parties. It is considered that the proposed vehicular access arrangements into the application site are acceptable. It is important to note that KHS are content that the new access points proposed from Ashford Road and Brogdale Road is acceptable in terms of highway safety and convenience.
- 9.62 In the light of the above, and subject to the imposition of highway-related conditions as set out below and the developer contributions referred to in the 'Developer / Section 106 Issues' section below, I conclude that the development would not have unacceptable implications for highway safety or convenience.

Air Quality

- 9.63 It is understood that the submitted Air Quality assessment within Chapter 9 of the Environmental Statement summarises that the proposed development will have no significant impact upon the surrounding area. However, as noted above, the Environmental Protection Team Leader states that, *'this area already suffers from significant traffic congestion particularly on the A2, and that proposals of this size will only make it worse'*. This issue has been addressed, in part, by the implementation of planning conditions, listed below, pertaining to developers to provide vouchers towards sustainable travel in the welcome pack of each household, and a Travel Plan (for a period of 5 years from the date of approval of the plan) to monitor progress in meeting the targets for reducing car journeys.
- 9.64 However, as stated earlier in 7.03, further clarity/information on this matter will be reported to Members at the Planning Committee meeting.

High Pressure gas Supply

- 9.65 As highlighted earlier, in points 7.07 and 7.08, there are two gas main pipes - an 18" steel high pressure gas main and 18" steel medium pressure gas main within the site boundary. This has also been confirmed by Scotia Gas Networks, in point 7.05. With regards to the high pressure gas main, it has been confirmed this has a building proximity distance of 3m either side, with a total easement of 8m (4m either side). The medium pressure gas main has a total easement of 6m (3m either side) in place.
- 9.66 The HSE has introduced a new planning advice system which is used for local authorities to assess potential impact of gas mains and pipelines that have been reclassified as 'Major Accident Hazard Pipelines'. The pipeline that bisects the Perry Court Farm development area falls into this criterion. The extent of development permitted within each zone varies dependent upon the

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sensitivity of the development type, however as a general rule no development can occur within the extent of the inner zone other than open space / landscaping and essential infrastructure such as roads and drainage. Residential properties can be constructed within the Middle Zone however the extent / amount of units are restricted.

- 9.67 It is understood that, discussions are ongoing with Southern Gas Networks to ensure that the potential for impact of gas main upon the development is minimised. Planning conditions have also been included below, to address this issue prior to/during the construction phases of development. Any further clarity/information on this matter will be reported to Members at the Planning Committee meeting.

Foul and Surface Water Drainage

- 9.68 Members will have noted above that Southern Water Services, the Environment Agency and Kent County Council, SUDS Team all have no objection to this planning application. Members will also note the 'foul and surface water drainage' condition set out below and that the Section 106 Agreement will include a clause in respect of the long-term management of the SUDS system. It is considered that the development will not give rise to unacceptable foul or surface water drainage implications.

Developer Contributions / Section 106 Issues

- 9.69 The SPD on developer contribution, which is referred to above, is the starting point for considering this issue. The planning obligations will also need to satisfy the tests set out in the CIL Regulations, and which are replicated at Paragraph 204 of the NPPF. Members will also note the payments requested by '**Kent County Council (Development Contributions Team)**' and as set out at Paragraph 7.17 above. The terms also include the provision of six wheelchair-accessible affordable homes as requested by KCC.
- 9.70 In addition, Members will also note that Kent Wildlife Trust are seeking a financial contribution of **£223 per dwelling** towards the Strategic Access Management and Monitoring Strategy (SAMM) for the monitoring and management of the SPA, to mitigate any potential increase in recreational pressure on the SPA.
- 9.71 Members will also note that Kent Highways Services are seeking a contribution of **£300,000** from developers to support the junction improvement works to the A251/A2 junction to be provided by KCC or for developers to submit a traffic signal scheme for their approval, and then to carry out the works under a Section 278 Road Agreement. In addition, this contribution towards works will be held for 10 years from the date of the first occupation. A Bus contribution will be sought, to a total of **£300,000** to be paid at annual intervals of £100,000. And also, a trigger point - to be discussed with the developers, to provide vouchers towards sustainable travel in the welcome pack of each household to the value of - **1 or 2 bed unit - £50; 3 bed unit -**

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£75; 4 or more bed unit - £100. This is to offset the traffic impact on The Mall since the scale of necessary improvement works would not be proportional to the impact generated by Perry Court.

- 9.72 Members will also have noted above that, Highways England are seeking a financial contribution towards a proposed signalised junction scheme, or other equivalent improvement to the benefit of M2 junction 7, prior to the commencement of construction on site. The amount sought from the current application is **£187,200**.
- 9.73 A financial contribution is also required in respect of the provision of wheelie bins (consisting of two per house and currently costing **£39.47 per bin**; A monitoring charge of 5% of the sum of all the financial contributions will also be payable, and will need to be included in the Section 106 Agreement.
- 9.74 A financial contribution for, the provision of additional healthcare for the community, is required by the NHS amounting to **£291,384**, plus support for their legal costs in connection with securing this contribution.
- 9.75 A financial contribution is also required by Kent County Council's Public Rights of Way department to improve the surface of the path between the new service road and the existing A2, to a value of **£21,450** be provided.
- 9.76 With regard to Affordable Housing, the applicant has agreed to provide the percentage and tenure split as required by the adopted Local Plan, but clarification is sought in respect of the mix of affordable dwelling sizes and the split between phases and these are matters that will be addressed as part of the reserved matters applications.
- 9.77 A monitoring charge of 5% of the sum of all the financial contributions will also be payable, and will need to be included in the Section 106 Agreement.
- 9.78 Further to the comments of the Kent County Council, SUDS Team above, it is considered that the Section 106 Agreement should include provision for the long-term management and maintenance of SUDS system (details of which are to be controlled by a planning condition included below).
- 9.79 It is considered that the applicant is asked to agree to the use of best endeavours to achieve (i) 50% labour from Kent, (ii) within the 50% a target of 5% trainees through an accredited apprenticeship scheme and (iii) 20 from within Swale; (iv) contractors and sub-contractors to achieve 30% of business from Kent and (v) within that 10% from Swale, and (vi) quarterly monitoring reports to the Council in respect of job creation. However, has indicated an unwillingness to include these requirements in the Section 106 Agreement. Nevertheless, and unless Members resolve otherwise, I consider that these requirements are reasonable and consider that they should be included in the Section 106 Agreement.

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- 9.80 Finally, delegated authority is sought to negotiate the Section 106 Agreement based on the above and to agree suitable triggers for the payments referred to above to be made and for the delivery / implementation of the other items described in this section.

Phasing

- 9.81 The applicant's proposed phasing scheme is described within the submitted Design and Access Statement. It states that the proposed development will be delivered in three phases. Phase 1 is proposed to include:

- Delivery of new access onto Ashford Road
- Delivery of a new care home and hotel
- Delivery of circa 1.5ha of employment land
- Delivery of a convenience store and circa 75 residential units with associated public open space.

Phase 2 will include:

- Delivery of circa 1.5ha of employment land
- Delivery of circa 120 residential units with associated public open space
- Delivery of informal playing fields.

Phase 3 will include:

- Delivery of second access onto Brogdale Road
- Delivery of circa 115 residential units with associated public open space and noise bund along the M2
- Delivery of allotments and community orchard

The gypsy and traveller pitches are proposed to be provided as required.

- 9.82 It is considered that triggers in the proposed Section 106 agreement should be used to secure the necessary payments and the other items as described above. With regard to the division of the construction of the housing into phases, Members will note the 'Construction and Environmental Method Statement' condition below and that it includes a requirement for phasing to be agreed.

Heritage Impact

- 9.83 There are a number of listed buildings within the study area (though none within the site itself), the majority of which are north of the A2 within the built up area of Faversham and therefore have no inter-visibility with the study site. It is noted that the Faversham Conservation Area lies north of the application site and therefore is not significantly directly affected by the proposed development. However, as stated above, there are two Grade II listed buildings, namely the Oasthouse and the Malthouse that are located within the vicinity of the application site.

- 9.84 The Oasthouse dates from 1904. It is a composite building consisting of two square oast houses at the east end, one at the west end with a 3-storey malthouse or granary between all built out of red brick. The centre portion has 3 storeys and 4 windows, a slate roof and casement windows with cambered head linings. Double doors with bambered head linings, on the ground floor

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only on the North side, but on each floor on the South side with gabled hood over the 2nd floor supported on brackets. The oasthouses at the ends of the buildings have pyramidal slate roofs with the tops cut off to make way for the cowl. It is considered that the significance of the oasthouse resides in its architectural (i.e. its form and fabric) and historical interest.

- 9.85 The oasthouse lies to the south of the currently built up area of Faversham and is set back to the east of Brogdale Road. Its immediate surroundings are a tarmac car park with a small collection of houses immediately to its west. The car park is bounded by a hedge and a line of mature trees on its northern side beyond which are the playing fields of The Abbey School. Perry Court Farm and its grounds (grassed) lies to the east as does the buildings of The Abbey School. To the south of the oasthouse is a grassed area containing a number of trees, beyond which (within the site) are modern arable fields (Plates 1-3). The setting of the outhouse in the direction of the study site has a neutral contribution to the significance of the oasthouse which presides primarily in its architectural interest. Generally, it is considered that, the modern adjacent school buildings have a mildly negative effect on the contribution that the setting has to the building's significance. Additionally, the sound of the traffic on the M2 is perceptible at the oasthouse which has a negative effect on the setting's contribution to the significance.
- 9.86 The site lies within an agricultural landscape, mainly under arable cultivation, therefore any archaeological features within the site will have, very likely, suffered extensive plough damage resulting in truncation and localised destruction of evidence. The submitted heritage assessment has established that there is little evidence to suggest archaeological remains within the site. However, there is evidence of significant settlement alongside Faversham Creek to the north of the study site from the Iron Age onwards. Therefore, it is reasonable to assume that the wider landscape was also occupied / exploited. Therefore, the presence of archaeological remains cannot be ruled out entirely. Therefore, planning conditions relating to archaeological and field evaluation may be imposed to establish any such remains, and are listed below.
- 9.87 Phase 2 of the proposed development site lies within the setting of the grade II oasthouse and malthouse which is located a short distance to the north of the site. One block of the proposed development lies to the south of the oasthouse separated by a field that is outside of the study site, and the development will be visible to the south of the oasthouse. It is noted that, although the northern boundary will be planted so as to filter views to the south from the oasthouse, as mentioned earlier in the report, it is considered that this part of the proposals should be sited elsewhere – so as to lessen any impact upon the setting of the Grade II listed Oasthouse. Moreover, it is considered that perhaps, the development may actually reduce the audibility of the M2 to a degree, if so; there will be slight enhancement of the setting in relation to noise impact. The setting to the east, west and north will be unaffected by the proposed development. It is noteworthy that, phase 1 of the development will have no effect on the setting of the oasthouse.

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- 10.01 As discussed above, given that the development proposed is not in accordance with the Adopted Local Plan, the acceptability of the proposals relies on various factors. These include, the absence of a five-year housing land supply, and the change in policy circumstances since the refusal of the previously submitted scheme on this site – namely, the publication and findings of the Faversham Town Heritage, Landscape and characterisation Study, and, the recent appeal decision of the Brogdale Road/Brogdale Place site. Both of these dispel the assumed public opinion that any development south of the A2 will not be permitted, and it is re-iterated that this was never Local Authority policy for this area. In addition, the Local Authority do not have a five-year housing land supply and, that varying adopted Local Policies may be deemed out-of-date – and therefore the policies set in the NPPF, as discussed above, apply. All of which, lead to the debate, and conclusion, of whether the proposed development constitutes sustainable development.
- 10.02 During the course of the consideration of the application, various material considerations have been carefully considered and assessed. Therefore, the conclusions of which lead to the potential for the proposed development to deliver significant economic, social and environmental benefits – subject to the strict and careful control of planning conditions and the signing of the Section 106 Agreement. However, this does not mean that the development's impacts have not been acknowledged. On the contrary, the adverse impacts of any such large scheme have been carefully considered, and, in this case, it is considered that the benefits of the proposals to the area will significantly out-weigh the impacts.
- 10.03 Therefore, it may be concluded that the proposed development amounts to sustainable development and that it broadly accords with the set policies of the NPPF and emerging Local Plan Bearing Fruits 2031. As such, planning permission is recommended subject to relevant planning conditions and the signing of the Section 106 Agreement.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) Details relating to the layout, scale and appearance of the proposed building(s), and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reasons: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

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Reasons: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reasons: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (4) The details submitted pursuant to condition (1) above shall show the residential development restricted to the residential areas as identified indicatively on the 'Illustrative Site Layout' Drawing Number: 5187-PL2-02 Revision B.

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

- (5) For each phase of the development hereby approved, no development shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures will be 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 of the phase of development in question as approved, and retained as such in perpetuity.

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

- (6) No development shall take place until details of a scheme for the long-term monitoring of breeding birds using the site has been submitted to, and approved in writing by, the Local Planning Authority.

Reasons: In the interests of monitoring breeding bird populations within the site.

- (7) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

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Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

- (8) Before the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:
- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
 - (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 - (1) highway drainage, including off-site works,
 - (2) junction visibility splays,
 - (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

- (9) No dwelling hereby approved shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority, and it shall be thereafter be implemented in accordance with the approved details. There shall be an annual review of the Travel Plan (for a period of 5 years from the date of approval of the plan) to monitor progress in meeting the targets for reducing car journeys.

Reason: To ensure the development accords with the measures set out in the travel plan, and in the interests of sustainable development and promoting public transport, walking and cycle visits.

- (10) None of the dwellings hereby approved shall be first occupied until details of measures to ensure that the emergency vehicular access to the approved housing is used only in the event of an emergency have been submitted to and approved in writing by the Local Planning Authority. The agreed measures shall then be implemented in accordance with a programme that shall also have been agreed in writing by the Local Planning Authority. Following implementation, the approved measures shall then be retained in perpetuity.

Reason: In the interests of highway safety and convenience.

- (11) The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking or garaging of cars and such land shall be kept available for this purpose 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 such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity and in pursuance of policies E1 and T3 of the Swale Borough Local Plan 2008.

- (12) The details submitted pursuant to condition (1) above shall show adequate land reserved for the parking of vehicles and for the loading and off-loading of commercial vehicles, and upon approval of the details 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 to this reserved space; such land and access thereto shall be provided prior to the occupation of the building hereby permitted and shall be used for or be available for use for the parking, loading and off-loading of vehicles at all times when the premises are in use.

Reason: The development, without the provision of parking, loading and off-loading 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

- (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, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

- (14) The accesses details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the accesses shall thereafter be maintained and shall make use of bound surface materials for the first 5 metres of the access from the edge of the highway

Reason: In the interests of highway safety.

- (15) Full details of the bunding (include plans and cross section of the bund, and details of any gates or openings, including plans for the operation and maintenance of these), the raised walkways and viewing areas shall be submitted to and approved in writing prior to the commencement of development.

Reason: In the interests of visual amenity

- (16) The development hereby approved shall be carried out in accordance with the following approved drawings:
5187-PL-01 Rev B Redline Plan

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10182/HL/01 Rev A Proposed Signal Junction Ashford Road/ Canterbury Road

10182/HL/02 Rev - Proposed Roundabout Ashford Road

10182/HL/03 Rev - Proposed Junction Brogdale Road

Reasons: In the interests of proper planning and for the avoidance of doubt.

- (17) 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 District Planning Authority.

Reason: In the interests of residential amenity.

- (18) No development shall take place until a detailed mitigation strategy for all species has been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be implemented in accordance with the agreed arrangements.

Reasons: In the interests of protecting and encouraging biodiversity.

- (19) No development shall take place until a strategy for updating ecological surveys, where development is not implemented within two years of date of surveys.

Reasons: In the interests of protecting and encouraging biodiversity.

- (20) No development of the scheme hereby approved shall take place until a Construction and Environmental 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. This shall include details relating to:

- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
- (ii) The loading and unloading and storage of plant and materials on site;
- (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (iv) The control and suppression of dust and noise including arrangements to monitor dust emissions from the development site during the construction phase;
- (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
- (vi) Measures to control mud deposition off-site from vehicles leaving the site;

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- (vii) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
- (viii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
- (ix) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
- (x) Lighting strategy for the construction phase, designed to minimise light spillage from the application site; and
- (xi) Phasing of the development.

Reasons: To ensure the development does not prejudice conditions of residential amenity, highway safety and convenience, and local ecology, through adverse levels of noise and disturbance during construction.

- (21) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
- (i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and
 - (ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reasons: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- (22) Construction of the development hereby approved shall not commence until details of the proposed means of foul drainage have been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water, Natural England and the Environment Agency.

Reasons: In the interests of achieving an acceptable scheme of foul drainage and in the interests of minimising flood risk and ground water contamination.

- (23) No development shall take place until a Green Infrastructure and Biodiversity Management Plan (GIBMP), has been submitted to and approved in writing by the Local Planning Authority.

Reasons: In the interests of protecting and encouraging biodiversity

- (24) The details submitted in pursuance of condition (1) above shall be in accordance with a Development Brief that shall first have been agreed in writing by the Local Planning Authority and which shall include the following:

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- (a) Details of the road layout for the site;
- (b) A comprehensive network of segregated pedestrian and cycle routes;
- (c) An overall landscape strategy for the application site;
- (d) An overall sustainable surface water drainage strategy for the application site (based on a network of open ditches and ponds);
- (e) A strategy for the architectural treatment of the buildings on the site, including elevational treatment, roof design and the palette of colours;
- (f) A strategy to maximise opportunities for biodiversity across all parts of the application site, including within the residential parcels;
- (g) A lighting plan for the site, to include details of the lighting columns, the type and luminance of the lighting units with glare shields and details of lux levels, both inside and outside the site;
- (h) A strategy for dwelling storey heights;
- (i) A strategy for ensuring the sympathetic development of part of the site close to Brogdale Road and Ashford Road; and
- (j) A strategy for cycle parking.

Reasons: In the interests of promoting a consistent quality of development, sustainable development, ecological protection and enhancement, and of visual and landscape amenity.

- (25) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

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

- (26) Prior to each phase of development approved by this planning permission no development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

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4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved. Sufficient information has been provided to satisfy part 1 of the above condition.

Reasons: To ensure any possible land contamination related to historic site activities is addressed in line with current planning guidance on sustainable development. To protect controlled waters and comply with the NPPF: Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

- (27) No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reasons: To protect controlled waters and comply with the NPPF.

- (28) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons: To protect controlled waters and comply with the NPPF.

- (29) No infiltration of surface water drainage into the ground at the site is permitted other than with the express prior written 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 controlled waters. The development shall be carried out in accordance with the approval details.

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Reasons: To protect controlled water and comply with the NPPF.

- (30) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written prior 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.

Reason: To protect controlled water and comply with the NPPF.

- (31) Adequate precautions to be previously agreed in writing by the Local Planning Authority, shall be taken during the period of demolition and construction to prevent the deposit of mud and/or other debris on the public highway.

Reason: In the interests of highway safety and convenience.

- (32) During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority and in accordance with details that shall first have been agreed in writing with them, to accommodate operatives' and construction vehicles parking, loading, off-loading or turning on the site.

Reason: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety.

- (33) No development shall take place until a full tree survey, tree impact assessment, tree protection plan and arboricultural method statement in accordance with the recommendations of BS 5837:2012 have been submitted to and approved in writing by the local planning authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees and hedges, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme.

Reason: No such details have been provide and to safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

- (34) No development shall take place until a detailed strategic landscape scheme (which shall be native species and of a type that will encourage wildlife and biodiversity) designed in accordance with the principles of the Council's Landscape character guidance has been submitted to and approved in writing by the Local Planning Authority. The scheme shall show all existing trees, hedges and blocks of landscaping on - and immediately adjacent to - the site and indicate whether they are to be retained or removed. It shall detail measures for protection of species to be retained, provide details of on-site replacement planting to mitigate any loss of amenity and biodiversity value together with the location of any habitat piles and include a planting

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specification, a programme of implementation and a minimum five year management programme.

Reason: No such details have been submitted and to ensure a satisfactory setting and external appearance to the development

- (35) 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.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (36) (i) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based on the preliminary strategy prepared by Brookbank Consulting Ltd (May 2015) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of through open infiltration features located within the curtilage of the site.
- (ii) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (37) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect controlled water and comply with the NPPF

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- (38) Before development commences details shall be submitted (or as part of reserved matters) for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential, commercial and community. This shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process.

Reason: In the interests of residential amenity.

- (39) No work shall commence on the development site until the off-site highway works indicated on drawings:
 10182/HL/01 Rev A Proposed Signal Junction Ashford Road/ Canterbury Road
 10182/HL/02 Rev - Proposed Roundabout Ashford Road
 10182/HL/03 Rev - Proposed Junction Brogdale Road
 have been carried out in accordance with a design and specification that shall first have been approved in writing with the Local Planning Authority, and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

- (40) Alterations to the public footpath known as ZF18, where it is directly affected by the proposed allotments and gypsy and traveller pitches will need to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety and convenience.

- (41) All land allocated for development as employment land, Use Class B1 and shown on the submitted 'Illustrative Layout' Drawing Number: 5187-PL2-02 Revision B shall be retained for such uses and for no other purpose.

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

APPENDIX 1 (Def Item 31.03.16)**INFORMATIVES**

1. It is the responsibility of the applicant to ensure before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Environment Agency Informatives:**2. Waste on site**

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to our:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website at www.environment-agency.gov.uk for further guidance.

Fuel, Oil and Chemical Storage

Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.

The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental

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damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

Advice for developers

We have produced advice with Natural England and the Forestry Commission on how new development can help improve the environment. This is in line with the national planning policy framework (NPPF) “the planning system should contribute to and enhance the natural and local environment” (Para 109).

<https://www.gov.uk/government/publications/planning-a-guide-for-developers>

3. Scotia Gas Networks Informatives:

The high pressure gas pipeline in the vicinity of the proposed development has a Building Proximity Distance (BPD). The building proximity distance (zone 1) is 3 metres either side of the pipeline. This should not however be confused with the HSE consultation zones 2 & 3 which will be considerably greater. Zone 1 is a safety factor with reference to habitable buildings as recommended by IGE/TD/1. It is calculated from the diameter, material, wall thickness and pressure of the particular pipeline. Under Pipeline Safety Regulations 1996 this distance is declared to the HSE. Any intrusion within this safety zone should not be taken lightly and any intention to proceed should be accompanied by a risk assessment or provision of other supporting evidence especially in the event of any legal proceedings at a later date. I have attached a copy of our plans showing the pipeline in relation to this site. Pipelines laid in private land are protected by a Deed of grant, which prohibits certain activities within the easement strip like no addition to or removal of surface levels, no structures over or within the specified distance of the pipeline. Further details are available if you require them. A request to us for any copies could incur a small fee, payable in advance. The easement strip is 8 metres in width. 4 metres either side from the centre-line of the pipeline. Any vehicle crossings over the pipeline will require: calculations to prove that no additional stresses will be incurred; a design showing the roadway in relation to the pipeline; and method statements to be agreed with SGN before it goes ahead. Road crossings need to be kept to a minimum.

This pipeline is of prime importance to the gas supplies of this area. Should any work be contemplated it is essential that you comply with the restrictions detailed below and in the document SGN/SP/SSW22 in order to protect our plant and equipment and for the safety of your own operatives

- 1) No mechanical excavation is allowed within 3 metres either side of pipeline.
- 2) No plant or storage of equipment shall be made within any easement strip.
- 3) If any metallic pipes or cables are being laid in proximity to gas pipelines then interference testing will be required, the cost of which to be borne by the promoter of the works. A minimum clearance of 600mm is required.

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- 4) All precautions stated in publication SGN/SP/SSW22 (Safe Working in the Vicinity of High Pressure Gas Pipelines) shall be fully complied with in all respects. Acceptance of SSW22 shall be acknowledged by the responsible site person signing and returning the form Appendix A (back page) to the SGN representative contacted in (7).
- 5) No thrust boring shall take place within three metres of the pipeline.
- 6) All planting within the easement strip should comply with Notes for Guidance on Tree Proximity.
- 7) Before commencing work on site you must contact our Pipeline Maintenance Section on 0141 4184093 at least three days before work commences. A Southern Gas Networks representative will then contact you to arrange to visit site. Details of working near to high-pressure gas pipelines can then be discussed.
- 8) Pipeline sections that are planned and agreed by SGN to be permanently covered (i.e. by road surface) will require a coating survey. SGN will repair any indicated coating defects free of charge. The survey costs will be borne by the promoter of the works. Prior to any surface cover cathodic protection coupons and reference cells will require installation at no cost to SGN.
- 9) This pipeline is cathodically protected and as such has test cables located in surface boxes, were these to be lost through this work we would look to you for remedial action at no cost to SGN.
- 10) Intrusive construction methods will require an agreed method statement prior to work starting.
- 11) The minimum proximity between the high pressure gas pipeline and any wind turbine should be 1.5 times the fixed mast height excluding the turbine of the wind turbine. If you are planning to construct a wind turbine closer than this, then you must contact SGN immediately.
- 12) Any extended period of SGN site supervision may incur charges to you. These will be charged based on visiting times, materials and occurrences. You will be informed when these come into effect and be invoiced direct.
- 13) Any piling or boreholes within 15 metres of the pipeline may require vibration monitoring. No piling or boreholing must take place within 3 metres of the pipeline.

4. Broadband Provision

The BT GPON system is currently being rolled out in Kent by BDUK. This is a laid fibre optical network offering a single optical fibre to multi point destinations i.e. fibre direct to premises.

5. Southern Water

The applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Atkins Limited at Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH, or 'southernwater.co.uk'

APPENDIX 1 (Def Item 31.03.16)Habitat Regulations Assessment

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. The proposal therefore has potential to affect the said site's features of interest.

For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) requires the Council to make an appropriate assessment of the implications for the site. Para. 119 of the NPPF states that 'the presumption in favour of sustainable development...does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planning or determined.'

Given the scales of housing developments proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology)
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England Commissioned Report 2011).
- North Kent Visitor Survey results (Footprint Ecology 2011)
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011)
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust of Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014)

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas in terms of recreational pressure
- Access levels are linked in local housing, with much of the access involving frequent use by local residents.

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- Bird disturbance study – dog-walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog-walking, and in particular dog-walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect will occur on the SPAs/ Ramsar sites from recreational pressure arising from new housing proposals in the North Kent coastal area.

The agreed response between Natural England and the local authorities is to put in place strategic mitigation to avoid this effect – 'a strategic solution'. This provides strategic mitigation for the effects of recreational disturbance arising from development pressure on international sites and will normally enable residential development to proceed on the basis of mitigation provided avoiding a likely significant effect.

This strategic approach is set out in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). It will normally require the creation of on-site mitigation, such as the creation of open space suitable for dog walking and, secondly, via payment of a dwelling tariff for off-site impacts. The money collected from the tariff would be used by the North Kent Councils and its partners for mitigation projects such as wardening, education, diversionary projects and habitat creation. The policy context for such actions is provided by policies CP7 and DM28 of the ELP.

Associated Information

The applicant's supporting ecological documents and their Habitat Regulations Assessment contain information to assist the Local Authority's HRA. These documents have been considered, and it is clear that careful consideration has been given to the potential implications of the development for the SPA, and the information is considered – having regard to the expert input from Kent County Council Ecology and Kent Wildlife Trust – to be sufficient to allow the HRA to be undertaken. It is noted that the applicant is fully committed to a per-dwelling payment for mitigation (amounting to £223 per dwelling) in addition to the provision of on-site green space as recommended by the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). This would be required together with appropriate triggers, by the Section 106 Agreement to accompany the planning permission.

Conclusions

Impacts, alone and cumulative, of a proposed residential development at Perry Court, Faversham on the nearby Swale SPA/Ramsar were assessed. The sensitive design of the development allowing access to local amenities and onsite

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facilities will reduce the requirement for residents to deviate into more sensitive areas. Dog owners will be provided for with areas public open space within the development which will reduce the frequency which people with dogs visit the SPA/Ramsar. There are more than 400,000 residential properties (equating to more than 936,000 residents) within 20km of the Swale shoreline. In view of this, and through an assessment of potential direct and indirect impacts, it is considered that the proposed development in isolation (310 residential units, 60 bed care home and 100 bed hotel) will not have a significant adverse impact upon the integrity of The Swale SPA/Ramsar site.

Evidence suggests that in combination effects from proposed developments in North Kent upon the protected site are likely, in the absence of mitigation, to have a significant effect. Onsite mitigation for increasing biodiversity under NPPF and local policies will occur. Such mitigation measures within the Perry Court development will include the creation of 15ha of landscaping which will include a number of ecological habitats and recreational benefits. Educational packs could also be provided to all new residents detailing the sensitivity of The Swale. The assumption is made that future development proposals would be required to include suitable mitigation (SANGS, payment towards site management measures etc) to ensure no significant effects on the integrity of the European site. Similar mitigation measures are proposed at two other sites considered in the cumulative assessment, Love Lane and Oare Gravel Works. Post-mitigation, it is considered that the proposed Perry Court development will lead to no significant effect on the integrity of The Swale SPA/Ramsar, either alone or in combination. As such there is no requirement for an Appropriate Assessment.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

A Ward Member spoke with concern on the effect of the development on Church Lane, a main access road, as it was already very congested. He requested that Members considered highway implications on Church Lane.

Resolved: That application 14/504665/FULL be delegated to officers to approve subject to conditions (1) to (24) in the report, with the deletion of condition (23), an additional condition requiring the flank windows in the Vicarage to be obscure glazed, re-positioning the parking spaces and re-consultation with KCC Highways, the Parish Council and local residents and to no fresh issues being raised in any additional representations received.

2.7 REFERENCE NO - 15/504264/OUT		
APPLICATION PROPOSAL		
Outline application (with all matters reserved other than access into the site) for a mixed use development comprising: up to 310 dwellings; 11,875sqm of B1a floorspace; 3,800sqm of B1b floorspace; 2,850sqm of B1c 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 of 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; 3 gypsy pitches: 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.		
ADDRESS Land At Perry Court, London Road, Faversham, Kent ME13 8YA		
WARD Watling	PARISH/TOWN Faversham	COUNCIL Faversham
		APPLICANT Hallam Land Management Ltd
		AGENT Barton Willmore

The Major Projects Officer introduced the application as set out in the report and provided updates.

He reported that the Greenspaces Officer had no objection to the application and welcomed the 15.2 hectares of open space on the site. The play area would be adopted by the Council, but the allotments would not.

The Major Projects Officer explained that the high pressure pipeline running east to west across the site would need to be considered at the Reserved Matters stage. Condition (24) would also need to be extended to include a clause in relation to the pipeline.

The Environmental Protection Team sought developer contributions to mitigate the effects of the development on the air quality in Ospringe.

Affordable housing would be secured by a Section 106 agreement, with a 30% provision and appropriate tenure split. Three further representations had been received with comments similar to those already noted in the report on pages 108 to 114.

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A further letter had been received from Countryside under Threat. A summary of their earlier letter was set out in paragraph 6.09 on Page 116 of the report. The new letter raised further issues, summarised as follows: highlighted large volume of objections received during course of the application against the proposals; stated that the 'green setting south of the A2' which had been 'safeguarded for an age' to protect the character of Historic Faversham was supported by the letter received by Historic England; it was understood that homes were needed but not at the expense of destroying heritage and setting; and Faversham historically competed with Canterbury and York as a very important historic town.

The Major Projects Officer drew Members' attention to the tabled representation from the Faversham Society and the complete Brogdale Road Appeal Decision (APP/U2255/A/14/2224509). This had been included in the report, but some pages had been missing.

He advised that the voucher scheme referred to in the report had been withdrawn as legal advice had stated that it was not Section 106 compliant and the funding would be used to increase the bus contribution instead.

The Major Projects Officer emphasised that further to the discussion of 'heritage impact' at paragraphs 9.83 to 9.87 in the report, not only had consideration being given to the requirements of the National Planning Policy Framework in the assessment of potential heritage impacts, it was also the case that proper consideration had been given to the statutory duty imposed under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and given considerable importance and weight to the desirability of preserving the setting of heritage assets.

Further to paragraph 7.19, on Page 124 of the report, delegated authority was sought to impose an additional condition in respect of the crossing to Ashford Road (at the north-east corner of the site) and to require the path through the site, parallel to Ashford Road. The Major Projects Officer considered that both should be of a specification suitable for both pedestrians and cyclists.

The Major Projects Officer sought delegated authority to approve the application subject to further negotiation on the open spaces; air quality mitigation; an additional condition for pedestrian and cycle crossing the north east of the site to give safe access; amend condition (24) as above and negotiate the Section 106 agreement based on matters noted within paragraphs 9.69 to 9.80 in the report.

Parish Councillor Dean Kimili, representing Ospringe Parish Council, spoke against the application.

Mr Tovey, an objector from Ospringe, spoke against the application.

Mr Bass, an objector from Faversham, spoke against the application.

Mr David Murray-Cox, the Agent, spoke in support of the application.

The Chairman moved the officer recommendation to approve the application and this was seconded.

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A Faversham Ward Member spoke against the application. He acknowledged that the employment proposals within the application were welcomed by some, and stated that there had been 290 letters of objection to the application and he did not want to see Faversham become a dormitory town. The Ward Member explained that the application land was important fruit and arable land. He considered the required housing figures could be sought by using brown field sites; the poor air quality in Ospringe would get worse; the adopted Local Plan was outdated; this was building on best land and was not sustainable; and this should be deferred until the emerging Local Plan had been examined; the application was premature.

The Ospringe Ward Member spoke against the application. He considered that, due to the amount of objection received, including a petition against the application, it should be deferred to another meeting for determination to allow more people to attend.

Councillor Prescott withdrew his support of the motion for approval and moved a motion to defer the application to another evening. This was seconded by Councillor Andy Booth.

A Member did not consider a deferment would resolve a conclusion on the application. He considered it was a premature proposal, and not in the adopted Local Plan or the emerging Local Plan. He stated that of the houses needed within Swale, this was not one of the sites that should be chosen; residents needed to be aware of the long-term housing needs and where houses should be sited; the Brogdale Road Appeal Decision was not comparable; suggest that a further proposal comes forward until the Local Plan was decided, or refuse the application and not consider until the new Local Plan was adopted.

At this point the Major Projects Officer advised that the applicant could appeal against non-determination. He suggested there could be a site visit to enable all parties to give their point of view. In response to a question, the Major Projects Officer confirmed that if there was a site visit, the applicant could still appeal against non-determination.

Councillor Prescott withdrew his motion to defer the application to another evening. Councillor Andy Booth withdrew from seconding the motion.

Councillor Prescott moved a motion for refusal. This was seconded by Councillor Roger Clark.

In response to a question, the Head of Planning advised that Swale had an out-of-date Local Plan and no 5-year supply of housing. Additional housing provision would be needed to meet the Borough's housing needs. The targets were unknown, but likely to be significant.

A Member suggested that loss of high quality agricultural land be a reason for refusal. The proposer of the motion for refusal suggested the following reasons for refusal: loss of best and most versatile farmland; highway congestion; air quality; density of development too high; and conflict with Bearing Fruits 2031.

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A Member suggested that the reasons for refusal be the same as the previously refused application (reference SW/14/0015) at this site as it was almost identical to this application. These were noted on page 134 of the report.

Another Member suggested that a further reason be that the site was not specifically allocated for development in the Adopted Local Plan 2008.

At this point the Head of Planning used his delegated powers to 'call-in' the application. The Chairman explained the effect of the 'call-in' procedure to members of the public.

Resolved: That as the Planning Committee was minded to make a decision that would be contrary to Officer recommendation and contrary to planning policy and/or guidance, determination of the application be deferred to a subsequent meeting when the Head of Planning should advise Members of the prospects of such a decision if challenged on appeal and if it becomes the subject for costs.



Appeal Decision

Hearing held on 27 January 2015

Site visit made on 28 January 2015

by **C J Anstey BA (Hons) DipTP DipLA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 May 2015

Appeal Ref: APP/V2255/A/14/2224509

Brogdale Road/Brogdale Place, Faversham, Kent, ME13 8SX.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Shepherd Neame Ltd. against the decision of Swale Borough Council.
 - The application Ref SW/13/1567, dated 23 December 2013, was refused by notice dated 25 March 2014.
 - The development proposed is the erection of 63 dwellings, open space, pedestrian and vehicular access, car parking, landscaping and associated works.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 63 dwellings, open space, pedestrian and vehicular access, car parking, landscaping and associated works at Brogdale Road/Brogdale Place, Faversham, Kent, ME13 8SX., in accordance with the terms of the application Ref SW/13/1567, dated 23 December 2013, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. At the Hearing an amended red-line site plan (drawing no. D-SLP- Rev A) was submitted on behalf of the appellant to replace that considered by the Council as part of the planning application (drawing no. D-SLP). The amended plan excludes a narrow sliver of land along the southern boundary of the site to reflect the appellant's land ownership. I have considered the appeal on the basis of this amended site plan given that it constitutes a non-material amendment and no interests would be prejudiced by this small reduction in the size of the site.
3. The planning application was also accompanied by a 1:500 scale illustrative layout plan. This layout plan shows the disposition of the dwellings on the site, the road layout and the location of the open space. As part of the appeal documentation a revised illustrative plan was submitted (drawing no. DACA-DWG) to reflect the revised site boundary. I have taken account of this plan in my consideration of the appeal.
4. A finalised Section 106 agreement, signed by the appellant, the Borough Council and the County Council, was submitted by the County Council after the close of the Hearing. I have taken this into account in my decision.

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Main Issues

5. The main issues in this case are:
- whether relevant policies for the supply of housing in the Borough are up-to-date, having regard to the 5-year supply of housing land;
 - the effect on the rural character of Brogdale Road and the rural approach to Faversham, having regard to the historical development and form of the town;
 - whether there would be a significant loss of the best and most versatile agricultural land;
 - whether the scheme should include provision for gypsy and traveller accommodation; and
 - whether the appeal scheme represents sustainable development, to which the *National Planning Policy Framework's 'presumption in favour'* applies.

Reasons

Description

6. The appeal site, which is about 3.4ha in area, is a rectangular, fairly flat, grassed field. It is situated in an urban fringe location on the southern edge of Faversham and to the south of London Road (A2). The site is bounded to the south and north by post and wire fencing and to the west by a 2m high deciduous hedgerow. Along the eastern boundary are a number of mature leylandii conifer trees.
7. To the north, between the site and London Road, there is a small housing estate, Brogdale Place, and other dwellings. Brogdale Road marks the site's eastern boundary and joins London Road to the north. On the east side of Brogdale Road there are a few scattered houses, school playing fields and beyond that the Abbey Secondary School. Immediately to the west is a commercial nursery, where there is a dense coverage of green houses and poly-tunnels. To the south there is gently rising open farmland extending to the M2 motorway which lies some 600m to the south.
8. The illustrative layout shows 63 dwellings, including 2, 3 and 4/5 bedroom houses. Of these 30% would be affordable housing. The developable area would measure about 2.3ha with some 1.1ha of open space located next to Brogdale Road and the southern boundary. The main vehicular access would be from Brogdale Road, towards the southern boundary of the site, with a pedestrian access in the north-east corner.

Development plan policies

9. There are a number of saved development plan policies in the adopted *Swale Local Plan 2008 [2006-2016] (SLP)* that are considered to be relevant to the determination of this appeal. The amount of weight to be attached to each of these policies is dealt with under the various issues, having regard to the government's *National Planning Policy Framework (the Framework)* and *Planning Policy Guidance (the Guidance)*.

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10. *SLP Policy SP1: Sustainable Development* is a general policy that seeks to ensure that new development accords with the principles of sustainable development. Amongst other things the policy indicates that development proposals should: avoid harming areas of environmental importance; secure the efficient use of previously-developed land; and reduce the need to travel.
11. *SLP Policy SP4: Housing* is designed to ensure that sufficient land is provided to satisfy housing need in accordance with the *SLP's* spatial strategy. *SLP Policies SH1: Settlement Hierarchy* and *H5: Housing Allocations* seeks to direct the majority of the Borough's housing growth (5,428 dwellings) to the Thames Gateway Planning Area (Sittingbourne and Isle of Sheppey) with limited development to meet local needs in Faversham and the Rest of the Swale Planning Area (377 dwellings). *SLP Policy H2: Housing* specifies that permission for new residential development will be granted for sites that are allocated or within defined built-up areas. Outside of the defined built-up areas and allocated sites new residential development will only be granted for certain limited exceptions.
12. *SLP Policy E6: Countryside* is designed to protect the quality, character and amenity value of the countryside and ensure that development outside the defined built-up boundaries is restricted to that which needs to be there. *SLP Policy E9; Protecting the Quality and Character of the Borough's Landscape* confirms the importance of protecting the quality, character and amenity value of the wider landscape of the Borough.
13. *SLP Policy FAV1: The Faversham and Rest of Swale Planning Area* specifies that the conservation of the historic and natural environment is the prime and overriding consideration. One of the priorities identified in the policy is support for meeting Faversham's development needs within the urban area so as to minimise greenfield land development.

Emerging local plan policies

14. *Bearing Fruits 2031: The Swale Borough Local Plan Part 1 [Publication Version December 2014] (SBLP)* is the emerging local plan. It was made available for consultation during December 2014 and January 2015 and the Council intend to submit the plan to the Planning Inspectorate for independent examination in the coming months. I have been referred by the Council to several policies in this plan and these are set out below under the relevant issue as is the weight to be attributed to them.

Issue 1: Supply of housing

15. On the basis of the housing requirement contained in the adopted *SLP* the Council accepts that within the Borough there is 3.17 years of housing land supply and a shortfall of 1,437 dwellings. These figures include provision for a 5% buffer and take account of the shortfall of dwelling completions in past years in accordance with the Sedgefield method. In my judgement, having regard to the material submitted, this is a reasonable assessment of the current position as regards housing land supply within the Borough.
16. In my view, therefore, there is a significant shortfall of deliverable housing sites in the Borough. Although I am aware of the distribution of housing development inherent in the *SLP* and the Council's recent endeavours to identify and release additional housing sites in Faversham this does not change

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my finding that in the Borough there is a shortage of deliverable housing sites. As the Council cannot demonstrate a 5-year supply of deliverable housing sites paragraph 49 of the *Framework* makes it clear that relevant policies for the supply of housing should not be considered up to date.

17. It is evident that certain of the adopted development plan policies are solely concerned with the supply of housing. These include *SLP Policy SP4: Housing*, *SLP Policy SH1: Settlement Hierarchy*, *SLP Policy H5: Housing Allocations* and *SLP Policy H2: Housing*. Although these policies remain part of the development plan they attract very little weight in view of the marked shortfall of housing land in the Borough.
18. Other adopted development plan policies contain elements that relate to the supply of housing. *SLP Policy SP1: Sustainable Development* endeavours to steer development to previously developed land within urban areas. *SLP Policy FAV1: The Faversham and Rest of Swale Planning Area* develops this approach by stating that Faversham's development needs will be met within the urban area so as to minimise green field development. *SLP Policy E6: Countryside*, amongst other things, seeks to restrict development outside built-up areas. Again although these policies remain part of the development plan those elements of the policies that relate to the supply of housing attract very little weight in view of the marked shortfall of housing land in the Borough.
19. Emerging *SBLP Policies ST3: The Swale settlement strategy* and *ST7: The Faversham area and Kent Downs strategy* indicate that Faversham will be a secondary urban focus for growth at a scale compatible with its historic and natural assets. Clearly these are housing supply policies. As the *SBLP* has not yet been submitted for examination and there are outstanding objections relating to the supply of housing very little weight can be attributed to these policies.
20. Applying *paragraph 215 of the Framework* it is considered that the local policies and elements of certain policies referred to above are inconsistent with the housing supply policies contained in *paragraph 47 of the Framework*.
21. I conclude, therefore, on the first main issue that since the Council cannot demonstrate a 5-year supply of deliverable housing sites, all relevant policies and parts of relevant policies for the supply of housing have to be regarded as out of date. In turn this means that in determining this appeal very little weight can be attributed to housing supply policies related to the distribution of development across the Borough, the release of previously developed sites in preference to the use of green field sites, and resisting housing outside built-up areas.

Issue 2: Rural character and appearance

22. Historically Faversham has mainly developed to the north of the A2. As a result the Council argues that development to the south of the A2 should not be allowed as it fails to respect the historical development and form of the town. From the material submitted and the discussion at the Hearing I am unclear as to why the historical development of Faversham and its current form is seen as being so significant that it merits protection. In reaching this view I am mindful that the historic core of Faversham lies some distance to the north of the A2 whilst a considerable amount of the land to the north of the A2 is occupied by housing estates of more recent origin. Furthermore there is already existing

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development south of the A2 including housing and a large secondary school and associated playing fields.

23. Notwithstanding this an important element of adopted *Policy SLP Policy E6: Countryside* is the protection of the quality, character and amenity value of the countryside. Similarly one of the elements of *SLP Policy SP1: Sustainable Development* is the avoidance of harm to areas of environmental importance. As these elements accord with national guidance these parts of the policies need to be accorded significant weight. *SLP Policy E9; Protecting the Quality and Character of the Borough's Landscape* also accords with national guidance and should be attributed significant weight.
24. Although the appeal site is not within a landscape designated for its quality or within the setting of the Ospring Conservation Area it forms part of the attractive open countryside to the south of Faversham and is clearly valued by local people. Consequently in its present state the site positively contributes to the rural character of Brogdale Road and the rural approach to Faversham. The proposal, therefore, would detract from the rural character and appearance of the local area.
25. There are a number of factors, however, that have a bearing on the degree of harm that would result. The appeal site is relatively small compared to the considerable amount of agricultural land extending southwards towards the M2 and is bounded by residential development to the north, glasshouses and poly-tunnels to the west, and school playing fields and several houses to the east. It is also at a slightly lower level than the agricultural land further to the south. As a result it is much more self-contained than other sites in the area. In my judgement these particular characteristics of the site and the surroundings would lessen the development's impact on the wider landscape. Furthermore the submitted illustrative layout makes provision for sizeable areas of open space and planting along the Brogdale Road frontage and southern boundary. In time this would help soften the appearance of the development and provide an appropriate area of transition between the developed part of Faversham and the countryside. Taking account of these factors it is my view that the proposed scheme would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham.
26. I conclude, therefore, on the second main issue that the proposal would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham. This brings the proposal into conflict with elements of *Policies SLP Policy E6: Countryside* and *SP1: Sustainable Development*, and with *SLP Policy E9; Protecting the Quality and Character of the Borough's Landscape*.

Issue 3: Agricultural land quality

27. The Council contend that the development of the site would lead to the unnecessary loss of the best and most versatile agricultural land and increase the pressure to develop other such land in the area. In support of this the Council refer to emerging *SBLP Policy DM31: Agricultural Land* which indicates that apart from in a limited number of specified instances development will not generally be permitted on the best and most versatile agricultural land (specifically Grades 1, 2 and 3a).

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28. I accept that in accordance with *paragraph 216 of the Framework*, account can be taken of emerging policies. However the *SBLP* has not yet been submitted for examination. Furthermore the wording of *SBLP Policy DM31* is different from that set out in *paragraph 112 of the Framework* which advocates the use of poorer quality land in preference to that of a higher quality where significant development of agricultural land is demonstrated to be necessary. The *Framework* does not rule out the development of the best and most versatile land as a matter of principle. In the light of this I consider very little weight can be attached to *SBLP Policy DM31*.
29. In my view the proposal does not involve a significant loss of the best and most versatile agricultural land. At 3.4 ha in area the field is very small in comparison to the amount of agricultural land around Faversham, most of which is of similar quality. I also note that the Council has recently identified other good quality agricultural land around Faversham for development. As it is not related to any other land-holding in the area its loss would not prejudice the continued operation of any farming business. Whilst acknowledging the Council's concerns about the release of other high quality land in the area south of the A2 each proposal needs to be determined on its particular merits, including its overall scale and relationship with existing development.
30. I conclude, therefore, on the third main issue that the proposal would not involve a significant loss of the best and most versatile agricultural land.

Issue 4: Gypsy and Traveller site accommodation

31. Emerging *SBLP Policy CP3: Delivering a wide choice of high quality homes*, in particular Criterion 6, indicates that for housing developments of 50 dwellings or more provision should be made for on-site gypsy and traveller pitches. The supporting text states that pitch provision should be at the rate of 1% of the total number of dwellings. The Council considers that in accordance with this policy a single gypsy and traveller pitch should be provided on the appeal site. I note that there is no support for this approach in the *SLP*.
32. I accept that in accordance with *paragraph 216 of the Framework*, account can be taken of emerging policies. However the *SBLP* has not yet been submitted for examination and there are unresolved objections to that part of *SBLP Policy CP3* relating to the provision of gypsy and traveller sites. Furthermore the particular approach to site provision inherent in the policy is not one that is set out in *the Framework* or in the *Planning Policy for Traveller Sites*. Consequently I believe that very little weight can be attached to *SBLP Policy CP3*. As a result I find no policy justification for the Council's approach of seeking the provision of a gypsy and traveller pitch on the site.
33. It is evident from the material submitted and the discussion at the Hearing that there is a need for additional gypsy and traveller site provision in the Borough. However it is less clear how this need is currently distributed and where it should be met. As a result it has not been established that Faversham is an appropriate location for additional gypsy site provision or whether there are more suitable areas available. Furthermore at a more detailed level gypsy sites usually include several pitches so that families can live together in small family groups. Consequently there is uncertainty as to whether a single pitch would address the need or prove attractive to would-be occupiers. In the light of this I do not believe that it has been established that there is sufficient evidence to support the provision of a single gypsy and traveller pitch on the appeal site.

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34. I conclude, therefore, on the fourth main issue that the development need not include provision for gypsy and traveller accommodation.

Issue 5: Sustainable development

35. *Paragraph 14* of the *Framework* makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental. In my judgement the proposal would fulfil the economic role of sustainable development and would contribute to building a strong, responsive and competitive economy, by helping to ensure that sufficient land is available to support growth. In terms of the social dimension the scheme would contribute to boosting housing supply by providing a range of sizes and types of housing for the community, including a number of affordable housing units. The site is available and in the absence of any significant constraints could be developed in the near future.

36. As regards environmental considerations the site is reasonably well located in terms of accessibility to the various services and facilities available in the town, including schools. Although the historic medieval core of Faversham town centre is located some distance away it is not so far as to rule out access by walking or cycling. For longer trips alternatives to the private car are readily available with regular train services from Faversham station to London St Pancras and Victoria, Canterbury and Dover. There is also a regular bus service operating along the nearby A2 to Sittingbourne. The proposed 1ha of land to be given over to public open space will increase the opportunity for recreational activities, whilst the proposed pedestrian crossing will make it safer and easier to cross London Road.

37. It is clear from my consideration of the second main issue that in terms of the environment the proposal would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham. However it is my view that the positive attributes of the development, in terms of the economic, social and environmental gains outweigh the negative visual impact, and that when taken as a whole the scheme would constitute sustainable development. Consequently the *Framework's* presumption in favour of sustainable development applies.

38. I conclude, therefore, on the fifth main issue that the proposed scheme constitutes sustainable development and therefore the *Framework's* 'presumption in favour' applies.

Other matters

39. Local people have raised a number of other concerns including the impact on highway safety, traffic congestion, residential amenity, biodiversity, drainage, and the capacity of local services and facilities. However, having considered all the material before me, including the views of statutory authorities and the various reports submitted, none of these matters individually or cumulatively would be likely to cause overriding harm, and they are not, therefore grounds for dismissing the appeal. In particular I note that the Highway Authority has acknowledged that there would be no unacceptable impacts to the safe and free flow of traffic on London Road and Brogdale Road.

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Overall planning balance

40. I have concluded that the proposal does not involve a significant loss of the best and most versatile agricultural land, and that the proposed development need not include provision for gypsy and traveller accommodation. These considerations, therefore, are neutral and do not weigh against the scheme.
41. I have found that the proposed scheme constitutes sustainable development and therefore the *Framework's* 'presumption in favour' applies. In determining this I have found that there are a number of economic, social and environmental benefits associated with the scheme. These factors weigh heavily in favour of allowing the appeal.
42. I have found that since the Council cannot demonstrate a 5-year supply of deliverable housing sites, all relevant policies and relevant parts of policies for the supply of housing have to be regarded as out of date and accorded very limited weight. *Paragraph 14* of the *Framework* makes it clear that planning permission should be granted, where relevant policies in the development plan are out-of-date, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole.
43. My conclusion on the second main issue is that the proposal would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham, and is therefore contrary to development plan policy. In my judgement, however, this adverse impact would not significantly and demonstrably outweigh the identified benefits of the proposed development.

Conditions

44. I have considered the planning conditions put forward and discussed at the Hearing in the light of the advice in *the Guidance*. I have applied the standard outline conditions (*Conditions 1, 2 & 3*). To ensure that the development proceeds in accordance with what has been approved the plans are specified (*Condition 4*). The submission of samples of materials for approval is required to make sure that those used are in keeping with local character (*Condition 5*). In the interests of public amenity and safety the development needs to be laid out in accordance with the principles of 'Secure by Design' (*Condition 6*). Parking space, and the retention of such areas, is necessary to minimise on-street parking and associated disturbance to residents (*Condition 7*).
45. Given the sensitive location of the site on the edge of Faversham and the need to ensure a high quality development a Development Brief for the site needs to be produced to guide the scheme (*Condition 8*). Most of the material required for the production of this Brief is contained in the application and hearing documents. In order to control the height of the new dwellings, thereby minimising the impact on the surrounding area, details of existing and proposed levels are required (*Condition 9*).
46. The provision of appropriate sewerage and drainage works to serve the site are necessary (*Condition 10*). The roads and associated elements need to be laid out in a satisfactory and timely manner (*Condition 11*). Landscaping details are required to ensure that the site is suitably landscaped and in keeping with local character (*Conditions 12 & 13*). In the event that any contamination is found on the site a remediation scheme strategy will be required (*Condition 14*). The

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dwellings need to meet appropriate levels of sustainable construction
(*Condition 15*).

47. During the construction period various matters, including the parking of vehicles and plant, hours of operation, burning of waste, condition of roadways and dust emissions, need to be controlled to protect highway safety or residential amenity (*Conditions 16-21*).

48. As no exceptional reasons have been put forward the removal of permitted development rights is not justified. As provision for cycle parking would be within domestic curtilages there is no need to require the provision of covered secure cycle parking facilities.

Section 106 Agreement

49. The finalised section 106 agreement, which will make provision for affordable housing, public open space and social and community infrastructure, is compliant with *paragraph 204* of the *Framework* and *Regulation 122* of the *CIL Regulations 2010*.

Overall Conclusion

50. My overall conclusion, therefore, is that there are compelling grounds for allowing the appeal subject to appropriate planning conditions. None of the other matters raised outweigh the considerations that have led to my decision.

Christopher Anstey

Inspector

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APPEARANCES

FOR THE APPELLANT:

Michael Bedford	Barrister (acting as legal representative)
Simon Milliken	Principal, Milliken & Company , Chartered Surveyors & Town Planners
Jonathan Billingsley	Director, The Landscape Partnership
Chris Blamey	Director, RGP (Transport Planning)
Michael Bax	Senior Partner (Rural), BFT Partnership

FOR THE LOCAL PLANNING AUTHORITY:

Tracey Day	Development Management
Shelly Rouse	Planning Policy
Libby McCutcheon	Senior Planning Solicitor
Richard Lloyd-Hughes	Rural Planning Ltd.
Alan Best	Planning Policy
Claire Dethier	Development Management

INTERESTED PERSONS:

Bryan Lloyd	Council for the Protection of Rural England
Janet Turner	Faversham Society
Joan Tovey	Local resident
David Bass	Local resident (also representing other local residents)
Priscilla Walker	Local resident

DOCUMENTS

1. Swale Local Plan Policy H4 Providing Accommodation for Gypsies and Travelling Show-persons handed in for the appellant
2. Statement on behalf of Mr D Bass and Mrs P Walker and 46 other local residents
3. Section 106 Agreement
4. Council's statement on housing land supply (27/1/2015)
5. Extract from SHLAA handed in for the appellant
6. Mr Lloyd's statement
7. LDF Panel report (23/2/2012)
8. Statement of Common Ground
9. Council's Committee Report relating to mixed use development on land east of Love Lane, Faversham
10. Mr Bedford's closing statement on behalf of the appellant
11. Statement of Common Ground relating to housing land supply
12. Bearing Fruits 2013 The Swale Borough Local Plan Part 1 Publication Version (December 2014)
13. Finalised Section 106 Agreement

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PLANS

- A. 1:1250 scale red-line site plan submitted with outline application (drawing no. D-SLP)
- B. 1:1250 scale amended red-line site plan submitted during hearing (drawing no. D-SLP- RevA)
- C. 1:500 scale illustrative layout plan submitted with application
- D. J C White – Topographical survey plans submitted with application
- E. Boundary of Faversham Conversation Area handed in for the appellant.
- F. Illustrative Masterplan for mixed use development on land east of Love Lane, Faversham
- G. Revised Figure 01A from Appendix 1 of Mr Billingsley’s hearing statement
- H. Revised 1:500 illustrative layout plan (drawing no. DACA-DWG)

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SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters referred to in Condition 1 above shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans [i.e. drawing no. D-SLP-Rev A at 1:1250 scale, illustrative layout plan - drawing no. DACA-DWG - at 1:500 scale, and J C White – Topographical survey plans].
- 5) No development shall commence until samples of the materials to be used on the external elevations of the dwellings hereby permitted, have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall not be constructed other than in accordance with these approved materials.
- 6) Prior to the commencement of development full details of how the development will meet the principles of 'Secure by Design; shall be submitted to the local planning authority for approval in writing and shall be implemented in accordance with the approved details.
- 7) The details pursuant to condition (1) above shall show adequate land to the satisfaction of the local planning authority reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards). The land so identified shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development Order 1995) or not, shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicle access thereto.
- 8) The details submitted in pursuance of condition (1) shall be in accordance with a Development Brief that shall first have been agreed by the local planning authority and which shall include the following:
 - (a) details of the road layout for the site;
 - (b) connectivity for pedestrians between the site and the town centre;
 - (c) an overall landscape strategy for the site;
 - (d) an overall sustainable surface water drainage strategy for the site (based on a network of open ditches and ponds);
 - (e) a strategy for the architectural treatment of the buildings on the site, including elevational treatment, roof design and palette of colours;
 - (f) a strategy to maximise opportunities for biodiversity across all parts of the application site;

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- 9) The details submitted in in pursuance of condition (1) shall show details of existing and proposed ground levels across the site and the levels of the proposed floor slabs and heights of the proposed dwellings and shall be submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.
- 10) Prior to the commencement of development hereby approved full details of the method of disposal of foul and surface waters as part of a drainage strategy shall be submitted and approved in writing by the local planning authority. This drainage strategy shall be based on SuDS principles and shall be designed to ensure that run-off rates are no greater than existing conditions. A drainage infrastructure Maintenance Plan should be incorporated into the strategy which should set out the information and procedures the owners/operators of the development will adhere to. The approved details shall be implemented before the first use of the development hereby permitted.
- 11) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway and driveway gradients, and street furniture, as appropriate, shall be constructed and laid out in accordance with details to be submitted at the reserved matters stage and approved in writing by the local planning authority before their construction begins. For this purpose plans and sections indicating as appropriate the design, layout, levels, gradients, materials and method of construction shall be submitted to the local planning authority. The works as approved shall be completed prior to the occupation of the fiftieth dwelling.
- 12) All hard and soft landscape works approved pursuant to condition (1) above shall be carried out in accordance with the approved details. These details shall include existing trees, shrubs and other features, planting schedules, noting species (which should be native species where possible and of a type that will enhance or encourage local biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing, materials and an implementation programme. The works shall be carried out prior to the occupation of the fiftieth dwelling or in accordance with a programme first agreed in writing with the local planning authority.
- 13) 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 and shrubs of such size and species as may be agreed with the local planning authority, and within whatever planting season is agreed.
- 14) If during development contamination not previously identified is found to be present at the site then no further development (unless agreed in writing by the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how the unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 15) The dwellings shall meet at least the Level 3 Rating of the Code for Sustainable Homes or any other specification approved by the local

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planning authority. No development shall take place until details have been submitted to and approved in writing by the local planning authority, which set out what measures will be taken to ensure that the development incorporates sustainable construction techniques such as rainwater harvesting, water conservation, energy efficiency, and where appropriate, the use of local building materials, and provisions for the production of renewable energy such as wind power, or solar, thermal or solar voltaic installations. Upon approval the details shall be incorporated into the development as approved.

- 16) During construction of the development adequate space shall be provided on site, in a position previously agreed with the local planning authority, to enable all employees and contractors and construction vehicles to park, load and off-load, and turn within the site.
- 17) 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 and Saturdays 0730-1300 hours, unless in association with an emergency or with the prior written approval of the local planning authority.
- 18) No impact pile driving in connection with the construction of the development hereby approved shall take place on site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times: Monday to Friday 0900-1700 hours, unless in association with an emergency or with the prior written approval of the local planning authority.
- 19) No burning of waste or refuse shall take place on the site during construction works other than may be agreed in writing by the local planning authority.
- 20) No development shall take place until measures, including wheel washing facilities, to prevent the deposit of mud and other debris on the public highway have been agreed in writing by the local planning authority. The agreed measures shall be implemented and retained on site during the construction period unless any variation has been agreed by the local planning authority.
- 21) No development shall take place until a programme for the suppression of dust during the construction period has been agreed in writing by the local planning authority. The agreed programme shall be implemented during the construction period unless any variation has been agreed by the local planning authority.

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By virtue of paragraph(s) 1, 2, 3, 4, 5, 6, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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