

**PLANNING COMMITTEE – 2 APRIL 2015**

**PART 3**

Report of the Head of Planning

**PART 3**

Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 14/505933/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Change of use of the land from garden centre to residential comprising of the construction of 67.no houses.			
<b>ADDRESS</b> Norton Ash Garden Centre London Road Norton Kent ME13 0SZ			
<b>RECOMMENDATION REFUSAL</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b>			
1) Unsustainable development being in an isolated rural location 2) Lack of gypsy/traveler provision on the site as required by local policy			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Councillor request			
<b>WARD</b> Teynham & Lynsted	<b>PARISH/TOWN</b> Norton And Buckland	<b>COUNCIL</b>	<b>APPLICANT</b> BMW (UK) Trustees Limited <b>AGENT</b> BDB Design LLP
<b>DECISION DUE DATE</b> 23/04/15	<b>PUBLICITY EXPIRY DATE</b> 27/02/15	<b>OFFICER SITE VISIT DATE</b>	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/07/0649	Revised site layout and design of retail and garden centre to current (implemented) planning permission SW/98/0717	APPROVED	07/02/11
SW/00/0554	Enlargement of the existing garden centre and nursery	APPROVED	22/05/01
SW/98/0717	Revised layout and access arrangements to SW/00/0554	APPROVED	16/10/98

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

1.01 The application site was formerly a garden centre and is approximately 9.1ha in size and is located on the southern side of A2 London Road between Sittingbourne and Faversham, to the east of Teynham, adjacent to the junction with Norton Road. Members will note that the site is approximately two kilometres from the centre of Teynham (the junction of the A2 and Lynsted Lane).

The site lies outside any settlement boundary and, for planning purposes, is in the countryside.

1.02 The site lies adjacent to the Texaco petrol filling station, which contains a small retail area, to the west, whilst to the east is a detached dwelling with its residential curtilage. Open countryside adjoins the site to the north and south and characterises the area as a whole.

1.03 The site lies within the parish of Norton, the most concentrated settlement of which is Lewson Street just to the south west of the site, but this is little more than a hamlet and has few facilities other than a church, village hall, sports club/pitch, public house and post box

1.04 The site currently consists of areas of hardstanding etc associated with the former garden centre buildings, glasshouses and car parking areas, much of which is now overgrown.

1.05 At the entrance to the site is the (blocked) vehicular access and junction onto the A2, which extends up into the site this is part of the extant planning permission which exists on the site, for its redevelopment as a garden centre, retail and leisure site.

1.06 The frontage onto the A2 London Road comprises a grass embankment with post and rail fencing. The site sits at a higher level than the footway along the site frontage. A row of large conifers are growing close to the site frontage in the north-eastern corner of the site.

### **2.0 PROPOSAL**

2.01 The application seeks full planning permission for the construction of 67 dwellings, with new internal access roads linking to the existing road network and small private drives. The proposal will comprise a mix of two to four-bedroom properties in two storey form. There will be a mix of detached, semi-detached and terraced houses, with a bias towards the larger detached houses.

2.02 The layout includes 2 large orchards along the site frontage, and a woodland buffer is retained wrapping around the eastern, western and southern perimeters of the site which will comprise retained trees and shrubbery supplemented by new planting in accordance with the proposed landscape strategy for the development of

the site. The layout also includes three areas of open space with a community allotment facility and an avenue of trees along the main spine road.

2.03 Plots 47-51 are proposed to be Code for Sustainable Homes (CSH) level 5 and all the other houses will be energy efficient and will be designed to at least the Council's adopted policy standard, aiming to achieve CSH Levels 4 and 5 or equivalent national standards.

2.04 Parking would be provided in accordance with the requirements of the Kent Parking Standards, within the individual curtilages of the proposed dwellings and comprise a combination of garages, car barns and on-plot spaces. This would enable all parking for new residents to be met on site with no requirement for parking along Norton Lane, A2 or elsewhere in the area.

### **3.0 SUMMARY INFORMATION**

3.01 The site's commercial history appears to have started with its use as a tree nursery (i.e. for forestry) which explains the closely spaced and now overgrown trees to the rear of the site. It was then developed for a garden centre on that part of the site adjacent to the A2. This use persisted for many years, during which time the wider site was subject to numerous plans for expansion of the garden centre and /or diversification into wider retailing.

3.02 The Council supported these plans because of the potential economic benefits to the Borough of greater employment and commerce, but also because the largely open and semi-rural nature and horticultural character of garden centres does not conflict with the Council's aims of protecting the rural character of this area. It is, however, important to note that the Council has always been careful to control via legal agreements the scope of retailing that could be carried on here in order to protect the character of the countryside and the vitality and viability of nearby town centres.

3.03 Of the previous planning permissions , SW/98/0717 is of particular significance, as it has been partly implemented, but only to the extent of creating the initial vehicular access point onto the A2. A number of planning applications followed this initial approval changing various details of the approved scheme.

3.04 The garden centre has since closed and the site has been cleared of all commercial development but it still bears the scars of demolition, of site clearance and groundworks which appear to anticipate further implementation of the extant planning permission.

3.05 As such, the site is subject to the potential completion of this planning permission and can be considered to have a fall-back position in terms of the approved commercial development.

3.06 Annex 2 to the NPPF defines previously developed land as that which was occupied by permanent buildings but excludes land where the remains of the permanent structure of fixed infrastructure have blended into the landscape in the process of time. Here the permanent buildings have been deliberately and very thoroughly removed, bar the access road. However, the extant permission is to my

mind more significant than the physical appearance of the site in terms of determining any future planning application.

Pre application discussions were conducted with the Council in 2014 and a review undertaken by the Council's Design Panel.

3.07 The Council's response on 15<sup>th</sup> September 2014 to the pre application proposals was not positive and stated that taking the policy position in the round it is clear that the notion of residential development here is fully at odds with established and emerging policy for sustainable development. The site is isolated and the proposals would not readily foster any strong links with any established community. It would likely be seen as an alien form of development at odds with maintaining the character of the countryside. Furthermore that the location of the site means that it will result in a car dependent and unsustainable form of development. The conclusion was that the proper approach to the promotion of residential proposals for this site should be its promotion through the Local Plan process, which the Council is well advanced with.

3.08 The scheme was discussed at the South East Regional Design Panel Swale on 23 September 2014. A follow-up letter dated 2 October 2014 contained a summary of the Panels comments. The Panel had strong concerns about the underlying principle of the scheme; namely the concept of a housing development in a location devoid of community infrastructure, including schools, health facilities and shops, with at the same time public transport being extremely limited. The Panel members feared the resulting isolation would result in a wholly car-dependent population with little chance of creating a mixed or integrated community and that the main road was a hazard for children and the physically infirm. The Panel saw little evidence of the ambition for a new model for a Kentish hamlet, in its form or response to the landscape. If planning policy was to change and there is to be any residential development on the site, the Panel considered it would be productive to consider a more radical even pioneering approach to creating a low carbon development of a smaller cluster of houses.

#### **4.0 PLANNING CONSTRAINTS**

Potential Archaeological Importance

MOD Thurnham MOD Safeguarding Directive Thurnham

Section 106 or 52 Agreement SW/07/0649

Section 106 or 52 Agreement SW/98/0717

Thurnham Exclusion Zone Thurnham, Kent

Thurnham Wind Station tHURNHAM WIND SAFEGUARDING

#### **5.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)  
Development Plan  
Supplementary Planning Documents

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

The key theme running through the NPPF is the need for sustainable development. It explains in paragraph 7 that *“there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:*

- ***an economic role*** – *contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- ***a social role*** – *supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and*
- ***an environmental role*** – *contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.’*

It further states at paragraphs 3 and 11 that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 12 states that:

*‘This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.’*

Paragraph 17 states that:

*‘Take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.’*

Paragraph 49 states that:

*‘Housing applications should be considered in the context of the presumption in favour of sustainable development. 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.’*

Paragraph 50 states that:

*'To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:*

- *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);*
- *identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and*
- *where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.'*

Paragraph 55 states that:

*'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.*

*For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as (amongst other things):*

- *Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.'*

Paragraph 110 states that:

*'In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment. Plans should allocate land with the least environmental or amenity value, where consistent with other policies in this Framework.'*

#### Relevant Development Plan policies

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

When the NPPF was released in March 2012 with immediate effect, para 214 stated *"that for 12 months from this publication date, decision-makers may continue to give*

*full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

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

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

FAV1 (The Faversham and Rest of Swale Planning Area)  
 SH1 (Settlement Hierarchy)  
 E1 (General Development Criteria)  
 E6 (Countryside)  
 E9 (Protecting the Quality and Character of the Borough’s Landscape)  
 E10 (Trees and Hedges)  
 E11 (Protecting and enhancing the Borough’s Biodiversity and Geological Interests)  
 E19 (Achieving High Quality Design and Distinctiveness)  
 B1 (Supporting and Retaining Existing Employment Land and Businesses)  
 H2 (New housing)  
 H3 (Providing Affordable Housing)  
 RC1 (Helping to Revitalise the Rural Economy)  
 T1 (Providing Safe Access to New Development)  
 T3 (Vehicle Parking for New Development)  
 T4 (Cyclists and Pedestrians)  
 T5 (Public Transport)  
 C2 (Housing Developments and the provision of Community Services and Facilities)  
 C3 (Provision of Open Space on New Housing Developments)

Swale Landscape Character and Biodiversity Appraisal (2011) SPD

Bearing Fruits 2031- The Swale Borough Local Plan Part 1

ST2- Development targets for jobs and new homes 2011-2031  
 ST3- The Swale settlement strategy  
 ST7- The Faversham area and Kent Downs strategy  
 CP3- Delivering a wide choice of high quality homes  
 DM8- Affordable Housing  
 DM9- Rural Exception Housing  
 DM10- Gypsy and Travellers  
 DM14- General Development criteria  
 DM19- Sustainable design and construction  
 D 26- Rural Lanes

Swale Supplementary Planning Document entitled ‘*Landscape Character and Biodiversity Appraisal*’ September 2011.

## 6.0 LOCAL REPRESENTATIONS

Norton, Buckland and Stone Parish Council resolved to strenuously oppose the above application and comment as follows:

*“The grounds of the opposition are several and arise both from the proposed development itself and the negative impact which the proposal would have upon the area and it's community.*

*The site of the proposed development is isolated and remote from any settlement and situated amid farmland (as the applicant's aerial photographs clearly demonstrate)*

*The nearest built up area is the tiny hamlet of Lewson Street, which this proposal dwarfs.*

*Services to the locality are already overstretched, the schools, the nearest of which is two miles distant are virtually fully subscribed, (even before the proposed major housing development at Teynham) Medical services are both heavily subscribed, and remote. Gas is not available, water supplies under stress, mains sewerage not available. Telephone and internet services poor. There is only an infrequent bus service.*

*The available existing facilities as listed within the application, are a tiny retail outlet within the adjacent filling station, Norton Church, 1mile distant, Norton Village Hall, close to a mile distant and a post box in Lewson Street  $\frac{3}{4}$  mile distant.*

**Any other facilities are a car journey away.**

*The site is stated as being “an easy six minute cycle ride from Teynham station”. (One wonders if the authors of the planning statement have tried this!)*

*The traffic survey does not seem to account for some sixty plus children, being driven to and from school at rush hour. No child is going to walk or cycle to school from this site.*

*The main premise upon which this application is based is that the SBC Local plan is inadequate in terms of dwelling numbers and is likely to be rejected on inspection. Development of this site would offer immediate addition to the available land supply. This assumes that SBC are not comfortable with the submitted Local Plan and that they have no sites, more suitable than this, with which to supplement existing planned housing numbers, if necessary.*

*The site was never considered for inclusion within the Local Plan, had it been, it would have been rejected under The Strategic Housing Land Availability Assessment.*

*No doubt with this in mind, the application includes various reports to establish it's suitability for development, and thus has apparently gone through various processes as would be necessary to justify a change of use and it's acceptance by the local community.*

*This Council believes some of these to have been less than rigorous and of little significance.*

**Market Testing.** *It is assumed that a sophisticated applicant would have evaluated the viability of the existing planning approval before completing a purchase. The subsequent market evaluation and search acknowledged that **at the time of purchase**, the project, for which there is planning approval, was not viable, but that subsequently market conditions improved considerably. At the point of improvement, market testing was ceased. Very few*



*alternatives within the existing planning approval were explored. e.g. less ambitious development of the same type. Given that the market for such a large centre with consent has now changed since the down turn in the market in 2009, the Council feels that the applicant has failed to indicate in any depth what has been addressed in trying to continue to take the site to market for such a large use, or that it has rigorously investigated alternative commercial uses. Merely seeking to replace it with residential is indefensible under policy.*

**Public Consultation.** *The process was minimal at best, and the results meaningless. A number of households within the Parish (but by no means all) were circulated with advice of a four hour display of the project in Norton Village Hall. Of the 14 replies to a questionnaire, 7 agreed with the project, 1 expressed no opinion, and 6 were opposed to it. The size of this response and its result, renders it meaningless (from either the pro or anti viewpoint)*

**Traffic.** *The traffic survey concludes that the traffic volumes will be no more than those generated by the existing planning permission. This may true, but the nature of the traffic from this application will be different. The majority will be commuter journeys on the A2 at peak hours, and 'school runs' again at busy periods.*

*The **only** argument for this application arises from presumption that The Swale Local Plan, as submitted, will be rejected, and that Swale will have no sites, more suitable, to supplement The Plan. This could be the only justification for approval, which would not benefit the local community, or economy, in any way, and would substantially change the nature of the area for the worse.*

*There is little indication that additional housing is required in the immediate locality and the development would place undue additional strain on already inadequate services. It would also set an unfortunate precedent, in creating a new settlement in open countryside, which could have disastrous consequences both for this and other rural communities. As few employment opportunities are available in the immediate area it would undoubtedly create a suburban commuter dormitory, in an isolated rural area.*

*Norton, Buckland & Stone Parish Council therefore urges that this application be refused.”*

In addition, 11 letters of objection have been received by local residents, whilst most cover many of the points raised in the Parish Councils response, in addition they comment:

- the site was not submitted for consideration under the SHLAA (Strategic Housing Land Availability Assessment) it would have shown to have failed with the site being remote and unsustainable as well as inaccessible to facilities and services.
- Not a valid argument to make, that as the demand for this size and form of garden centre has not returned this justifies residential development
- The residential built area will be far more than the previous buildings or even the previous extant permission proposed
- Inconsistences in the documents ,eg one claims extant permission is the realistic fall back position yet another states no garden centre demand at this time
- The application shows insufficient detailed evidence
- Garden centres are typically found on rural sites
- It is a stand-alone residential development whose layout or highway could benefit adjacent villages
- As it is isolated from any infrastructure it will become a dormitory for people commuting

out of the area for work and social activities

- They should adhere to the present use for the site or sell it on to someone who will
- Norton Buckland and Stone is a beautiful and historic parish and not suitable for such a large development
- The size and density will create a new village of its own
- Properties proposed will overlook existing residents
- Local residents are concerned at the current speed of traffic on the A2 and more vehicles trying to access the road will increase accidents
- Closing of the layby currently on both sides of the road close to the site should be considered
- Villages nearby are small and this size development will swamp them and alter the ambience of the area
- The garden centre is far more welcomed by local residents
- 67 houses would overload the water, power and telephone systems, broadband speed is also non-existent
- The impact of the development on the countryside, neighbouring properties, and wildlife is exacerbated by the fact it is on elevated land
- No report produced on the impact of the development on Norton or what might mitigate the impact of the development

## 7.0 CONSULTATIONS

7.01 Environment Agency were satisfied with the Flood Risk Assessment and the use of SUDS, regarding contamination they did not consider the proposal to be high risk, advised all precautions should be taken to avoid discharge into the ground during and after construction and provided advice regarding soakaways

7.02 Southern Water identified the site is some distance from the nearest public foul sewer and that there is currently inadequate capacity in the local network to provide foul sewerage disposal service to the site without risk of flooding to existing properties and land. Therefore additional off-site sewers or improvements to existing sewers would be required to cater for the development. They require that should the development be approved construction should not commence without full details of foul and surface water sewerage disposal being submitted and approved by the Council and Southern Water.

7.03 Kent Police raise concerns regarding the garden service paths of 6 plots, the parking court surveillance/security to the rear of 4 plots, security of the allotments and the paths adjacent to it, the footpath through the woods to the south of the site and requested a meeting to discuss the Kent Design Initiative-Design for Crime regarding crime prevention.

7.04 Kent County Council Biodiversity Officer noted the areas of woodland/orchard and green space to be retained and created on the site and supported this, with the requirement for a Management plan and an increase in bat roosting opportunities such as bat bricks/tiles. A recommendation was made for additional information regarding the reptile survey and the potential impact on the Swale SPA, Ramsar and SSSI sites from the applicants.

7.05 Kent County Council Archaeological Officer comments that the proposed residential site has a potential for archaeology given the general background for prehistoric and Roman remains in the area and specifically the finding of a later prehistoric pit during the development of the access road to the former garden centre and the route of the main Roman road on the north boundary. There will be parts of the development site that have been damaged through previous development but equally substantial areas where that is not the case.

While it would be preferable for a more up to date desk based assessment to be submitted that looks at the specific impact of the proposed development, I am satisfied that the 2007 report provides a good account of the archaeological baseline for the site which has not to my knowledge altered since the report was written.

I note our previous advice for a condition securing a **programme of archaeological works** be attached to the planning permission for this site and my advice remains the same for the present proposals. The programme should involve an initial examination of the site topography and previous and proposed impacts to help to target evaluation field work such as trial trenching and geophysics should conditions be suitable.

7.06 The Council's Environmental Protection Manager required a verification report regarding the low risk findings of the Groundwater and Ground Gas Risk Assessment Report and due to the potential of nuisance to neighbours during any construction phase a restriction should be placed on the hours of construction work. Further that there was no objection on noise and air quality grounds.

7.07 CPRE object to the application and comment that with regard to the emerging local plan and the provision it makes for housing development, we would draw your attention to the letter from the Planning Minister to the Chief Executive of the Planning Inspectorate of 19 December 2014 which states that:

*"...the outcome of a Strategic Housing Market Assessment is untested and should not automatically be seen as a proxy for a final housing requirement in Local Plans. It does not immediately or in itself invalidate housing numbers in existing Local Plans. Councils must consider SHMA evidence carefully and take adequate time to consider whether there are environmental and policy constraints, such as Green Belt, which will impact on their overall final housing requirement."*

The Minister's advice, therefore, is quite clear that it is not appropriate to assess five-year land supply on the basis of an objectively assessed housing need that has not been tested through the local plan process. The Borough Council has come to the view, for a number of sound reasons in our view, that the Borough cannot deliver the objectively assessed housing need. These reasons remain to be tested. The applicant is therefore wrong to assume that the local plan will be rejected for not meeting objectively assessed housing need and to base their application on this assumption. No regard at all should be given to this argument.

With regard to five-year housing land supply, it is unclear to us from the housing supply information as presented in the most recent KCC Housing Information Audit,

whether or not Swale has a five-year supply when considered against the currently agreed housing target.

In any event, though, this point is only of relevance if the proposed development comprises sustainable development, as the presumption in favour of development resulting from a failure to demonstrate a five-year supply only applies if the development proposed is sustainable. The development of 67 dwellings in this isolated location is inherently unsustainable, so the presumption in favour of development – whether or not there is a five year supply of housing land – does not come into play.

The application site comprise land that falls outside, and some distance from, any defined settlement boundary – Teynham is over a mile distant to the west and the small village of Lewson Street is of a similar distance to the south. It is not allocated in either the adopted or emerging local plans for any type of development. Although it is a previously developed site (for another use), in planning terms the site lies in the open countryside where saved Policy E6 of adopted Swale Borough applies.

Because of the isolated location of the site, completely unrelated to any existing settlement, it will be a new totally free-standing community. However, it will be a community that has no services or facilities meaning that it will be an entirely car dependent development. This makes it unsustainable and contrary to the provisions saved Policy S1 (points 8, 9 and 10 in particular).

This is not an 'employment' site to be protected by Policy B1. This site is not included as an 'existing employment site' in the Council's Employment Land Review (ELR) carried out by Nathaniel Lichfield and Partners in 2010 (see appendix 5 of the ELR). The planning permission granted for the site is not for employment use, but for an enlarged garden centre and retail uses. Whilst it would generate some employment, this was not the primary purpose of the development permitted or why it was permitted. It would, therefore, not fall to be protected under saved Policy B1. This is not a material consideration in this application. In any event, this would not over rule the in principle objection to the development of this site for residential use provided by saved policies E6, SH1 and S1.

CPRE conclude this is a clear-cut case where housing development of the scale proposed in this location is unacceptable and unsustainable. It is profoundly contrary to saved policies E6, SH1 and S1 and should be refused for being so.

7.08 The views of Kent County Council Education Contributions, Swale Borough Council Tree Consultant, the Green Spaces Manager and Kent Highways Services are awaited, and I will update Members at the meeting.

## **8.0 APPRAISAL**

8.01 The application is for the construction of 67 houses on a site located in the designated countryside with the argument made by the applicant that as the Council does not have a five-year land supply of deliverable housing sites as required by paragraph 47 of the National Planning Policy Framework (NPPF), this makes the adopted Swale Borough Local Plan, and its policies out-of-date. The applicant also

argues that the brownfield nature of the site, and the contribution it can make to meeting housing supply, means that the NPPF's presumption in favour of sustainable development applies and that the proposal is sustainable. A further argument is that planning policies should avoid the long-term protection of sites for employment development where there is no prospect of the site being developed and therefore Policy B1 providing such protection for this site should be overridden.

8.02 Therefore the main areas to consider are the acceptability of the development given the weight the NPPF places on sustainable development and whether this proposal could be judged as being such. But also whether, as the applicant argues, is the lack of a 5 year housing supply sufficient justification for overriding national and local policy and accepting the development.

8.03 When considering whether this proposal could be an exception to restricted development in the countryside paragraph 55 of the NPPF is applicable.

8.04 It states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as: The paragraph then lists the exceptions which in summary are:

- Rural workers dwelling to support an agricultural activity
- Optimal viable use of a heritage asset, or enabling development
- Re-use redundant buildings or enhance the immediate setting
- Exceptional innovative design

It is clear that none of the special circumstances apply to this case and therefore we must consider whether this proposal will enhance or maintain the vitality of rural communities by supporting services in villages nearby.

8.05 The proposal, however, is very inward facing and has no connectivity with the nearby parish of Norton. Members will have noted the Parish Council's comments at paragraph 6.0 above. The site is fairly remote with only the petrol station, with a small retail element, to serve as an amenity for the proposed residents. There are no facilities or services on site and access to any meaningful services or amenities would have to be by car, with Teynham, approximately two kilometres away, being the nearest centre with a range of services, including shops and a doctor's surgery. The site, as such cannot be considered sustainable.

8.06 Paragraph 55 further allows development from one village to support another but again this proposal is so disconnected from any of the local settlements that this cannot be considered the case here.

8.07 Norton itself is a multiple collection of small clusters of houses (Provender Lane, Norton Lane, Tickham Lane) and whilst there is the hub at Lewson Street the village could not, in my opinion, be called a coherent/compact settlement. Therefore I fail to see how the development proposed, given its distance and dis-connectivity could be said to support Norton as a whole. I therefore consider that the proposal

fails to enhance or maintain the vitality of the communities which make up Norton and as such is contrary to national policy.

8.08 The applicant's argument is that as the Council does not have a five year housing supply it follows that residential development, on this site is acceptable; however the premise of the statement cannot be accepted.

8.09 Whilst it is indeed the case that the Council does not currently have a 5 year supply of housing land in accordance with paragraph 47 of the NPPF ,paragraph 14 indicates that planning permission could be refused where adverse impacts would significantly and demonstrably outweigh the benefits ,when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate development should be restricted.

8.10 In this case, the development is not considered sustainable and as such would not enjoy a presumption in favour of sustainable development .The proposed development of housing on this isolated site will facilitate a dependence on car travel to any facilities or services and is therefore fundamentally unsustainable.

8.11 Specifically paragraph 55 of the NPPF states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances. None of the circumstances listed apply in this case ;neither are there any other such circumstances .It seems clear therefore that even with the shortfall in housing land supply the specific circumstances under which planning permission could be refused ,as set out by paragraph 14 of the NPPF apply here. .As a result current and adopted policies intended to protect the countryside, including Policy H2 should not be viewed as out of date – despite paragraph 69 of the NPPF.

8.12 The adopted local plan policies indicate that the overall policy scenario here is that the Council is seeking to set a scale of development for the Faversham area that, amongst other things, better balances population and employment opportunities alongside a reduction in commuting to other areas, partly by retaining employment land and buildings that would otherwise be lost to housing development. But to also raise the standard of design and environment, and to support proposals that can meet as much of Faversham's development needs as possible from land and buildings within the existing urban area so as to minimise greenfield development (see clauses 1, 2, 5 and 6 of policy FAV1). Policy SH1 sees development focussed within built up areas or in accordance with policy E6.

8.13 Policy E6 seeks to ensure that the quality, character and amenity value of the wider countryside of the Borough, which is all the land falling outside the built-up area boundaries as defined on the Proposals Map Insets, will be protected and where possible enhanced. Development will only be permitted in exceptional circumstances, none of which apply here and certainly not for general market housing on isolated rural sites.

8.14 The Council is also keen to retain the employment potential on existing commercial sites, here retail and leisure jobs were to be provided via the previous permission, unless these are inappropriately located for any employment use, and having an unacceptable environmental impact in an area; or are demonstrated by expert advice that the site is no longer suitable for any employment use; or it is

clearly demonstrated by market testing that there is insufficient demand to justify its retention for any employment. The removal of the element of employment this site can provide is therefore contrary to local policy.

8.15 In cases involving a change of use or redevelopment for residential purposes, as in this case the Council will require proposals to consider a mixed use approach to the site, involving a viable level of replacement or alternative employment provision, so that there is no conflict with Policy SH1. In this case no such mix is proposed and the replacement of all on the site with housing is proposed.

8.16 The applicant argues that planning policies should avoid the long-term protection of sites for employment development where there is no prospect of the site being developed and provides a report to show they believe this to be the case for the site.

8.17 They refer to Policy B1 providing such protection for this site and that the protection it provides should be overridden. However, this is not an 'employment' site to be protected by Policy B1. This site was not included to be considered to be an 'existing employment site' in the Council's Employment Land Review (ELR) and the planning permission granted for the site is not for employment use, but for an enlarged garden centre and retail uses.

8.18 It would of course generate some employment, but this was not the primary purpose of the development permitted or why it was permitted. It would, therefore, not be protected under Policy B1 and cannot be a material consideration in this application.

8.19 The letter from Gilbert Evans, submitted by the applicant, explained the process for marketing of the site which concludes a lack of interest in the site being taken forward as a garden centre, however this marketing appears to have ended in 2013. I would argue that given in the intervening time where no further investigation has been conducted with any garden centre interests and given the changing economic climate sufficient evidence has not been provided of any current marketing or indeed the current market condition to attach much weight to the letter and its conclusions.

8.20 In my view the loss of the element of potential employment on this site is something that cannot be supported without a full justification with clear evidence that the previously approved development of the garden centre (or a variation thereto) is highly unlikely to come to fruition.

8.21 The submitted information I consider to be insufficient and this along with the applicant essentially describing this permission as harmful development which would have a negative impact on the locality, to justify its replacement with the proposed housing scheme is misleading given its approved and implemented status. The site was very popular as a garden centre and the permission to expand this business and develop the site was taken by the Council a number of years ago and all the impacts were assessed including the appearance, level of additional development, impact of traffic and the impact on the rural surroundings. Only after full consideration was given to the proposal was it judged to be acceptable.

8.22 Housing Policy H2 is clear that permission for new residential development will only be granted for sites shown as allocated for such on the Proposals Map, or within the defined built-up areas as shown on the Proposals Map, and in accordance with the other policies of the Local Plan. Outside of defined built-up areas and sites allocated in this Plan for residential development, permission for new residential development will normally only be granted in accordance with the exceptions to Policy E6 which, as discussed earlier, none apply here.

8.23 Policy H2 further states that new residential development will be expected to make the most efficient use of land and provide a range of house types and sizes appropriate to the location and nature of the site and reflecting the identified need in the locality. In designing new residential development the objective should be to create more sustainable forms of development in accordance with the other policies in the Local Plan.

8.24 The scheme appears to be at odds with a number of strands of this policy, including the relatively low density envisaged and the limited range of house types included.

8.25 Further housing policies apply to the proposed development and do not support the submission. Policy RC3 relates only to local needs affordable housing. On the other hand policy H3 requires that affordable housing should be incorporated into all new housing developments of 15 dwellings or more, with not less than 30% of units expected to be affordable housing. Advice from our Housing Strategy and Enabling Officer, states that;

- The proposed 20 affordable and 47 open market properties does meet part of the policy criteria
- However it does not provide a required 70:30 split but it is considered it does provide a sensible and appropriate mix
- There is a requirement for affordable housing in the area
- We would seek a small number affordable fully wheelchair adapted homes on this site, the number of which would be agreed with the preferred Registered Provider (RP).
- The location and clustering of the affordable dwellings cluster of the 20 dwellings should be split into two clusters of ten units in two distinct areas on the site.

8.26 In terms of the design and appearance of the scheme the proposed development is not necessarily in the design of a typical Kentish Hamlet and with an estate remote from any comprehensive community infrastructure or an adequate public transport arrangement.

8.27 The development calls for a distribution of quite substantially designed houses, some with quite large gardens, grouped in cluster formats around in some key places communal green areas, although in one case spoilt by the intervention of vehicular access ways. The whole scheme is structured in its layout planning to be a very low density well landscaped environment isolated from all that surrounds it.



However given the serious remote locational determinant to acceptability, for such a scheme to be in any way capable of being even vaguely considered to be worthy of one to challenge established policies it needs to be an innovative settlement properly serviced by adequate community facilities and one demonstrating a twenty-first century radically modern hi technical system of building to meet fast changing liveability/work space needs. This approach was previously advised to the applicants via South East Regional Design Panel.

8.28 Unfortunately the failure of the scheme to meet even such a distinctive settlement concept is added to its failure to meet all the relevant national and local planning policies, especially on design. There is a lack of variety in the indicative designs suggested for the house types and also a lack of community cohesion in the overall layout.

8.29 The site is low density and as highlighted by Kent Police the spacing of the properties and the resultant large areas of open space particularly to the rear of the site is likely to create an unsafe environment for the residents.

8.30 The lack of connectivity to the nearby local villages and nearby existing residential properties. and the reliance on car travel to access all the most basic of needs of work, school, food and leisure is likely to leave potential residents feeling isolated. In addition this is exacerbated by the lack of any community/communal facilities on the site where there is likely to be limited connectivity with those even within the development.

8.31 The proposed 67 homes on what is essentially a car dependent site is also likely to have an effect not only on the rural lanes in the immediate vicinity of the site but also on the A2. As noted above, I am awaiting comments from Kent Highway Services regarding the highway safety and amenity issues and I anticipate being able to update members of at the meeting.

8.32 In terms of public transport the site is only sparsely served by a bus service which runs 1 bus an hour between Faversham and Sittingbourne and although there are bus stops within walking distance of the site only a shelter is provided to the eastbound route. This is not sufficient to meet the likely needs of the targeted residents for this isolated development.

8.33 The nearest train station is in Teynham nearly 2 miles away and provides local rail routes whilst London bound trains can only be accessed from Faversham and Sittingbourne train stations, again pointing to the dependence on a car for likely residents of the scheme.

8.34 I note the proposed new pedestrian access in the south west corner of the site onto Norton Lane however I would question the safety of providing pedestrian access onto a narrow rural lane with no pavement. In addition the pedestrian access on the Norton Road/A2 junction appears dangerous and essentially leads nowhere.

8.35 Apart from cycle storage to be provided at the proposed dwellings (presumably via the garages), providing public transport information and 2 additional pedestrian links out of the site, no additional provision is being provided to facilitate or increase

the use of local public transport or any improvements to the connectivity of the site to the local area. This is a fundamental flaw of the scheme and reinforces the unsustainable nature of the proposal.

8.36 Whilst in the vicinity of the site is National Cycle Route 1 it lies to the north across the A2 and footpaths to the south can only be accessed via Norton Lane where no pavement exists along this rural lane to connect to them.

8.37 I note a benefit of the scheme being the areas of woodland/orchard and green space to be retained and created on the site. Furthermore that Kent County Council Biodiversity Officer supports this, with the requirement for a Management plan and an increase in bat roosting opportunities such as bat bricks/tiles.

I also note the areas in which they require additional information regarding the reptile survey and the potential impact on the Swale SPA, Ramsar and SSSI sites but I consider this can be provided and given the recommendation here is not necessary at this point.

8.38 Policies C2 and C3 apply to new housing development, and relate to the provision of community facilities, and to open space respectively. In terms of community facilities, I note the submitted Draft Section 106 Heads of Terms proposes a contribution based on earlier advice from County Council that the contributions should be per house of £4,000.00 for primary new build education, £2,359.80 for secondary school extension, £60.43 for adult education and £63.33 for social care (plus at least one a wheelchair accessible home in the scheme) would be sought. However I await confirmation from the County Council regarding these figures and hope to report to members verbally at committee.

8.39 As far as the open space is concerned, policy C3 normally seeks at least 10% of the net developable area of such a development to be provided as public open space. Here, given the isolated nature of the site, the provision of a publicly maintained area of open space can not be considered to be the best approach. Alternatives, as previously suggested, might be the provision of funds to improve the village sports ground facilities, and to provide a privately maintained orchard style open space, that will introduce some of the local horticultural history of the area to the site and give the development a distinctively local character. Opportunities for linking with orchard expertise at Brogdale might be explored. I am awaiting the comments from the Council's Green Spaces Manager regarding the best approach and hope to update members verbally at the meeting regarding this.

8.40 The Council has also published a Consultation draft revision to the Local Plan entitled "Bearing Fruits 2031" which largely carries through the saved policies referred to above.

8.41 I have considered all the information submitted by the applicant and am advised by the responses from statutory consultees and I have also considered the comments made from all interested parties in coming to my determination of the application.

## 9.0 CONCLUSION

9.1 Whilst it is accepted that there is a need to provide for adequate housing within the Borough, the Strategic Housing Land Availability Assessment has shown that there are more than enough sites available in far more sustainable locations than this site.

9.2 I do not consider the need to provide housing outweighs the undesirability of developing in this location, and on a site which appears to have significant and more appropriate commercial development potential, the extent of which has not been fully explored either in policy or planning application terms.

9.3 Taking the policy position and having assessed the proposal against all relevant considerations, the proposed residential development here, is fully at odds with established and emerging policy for sustainable development. The site is isolated and will not readily foster any strong links with any established community. Furthermore it is likely to be seen as an alien form of development at odds with maintenance of the character of the countryside.

9.4 The NPPF makes it clear that planning applications should in principle be determined in accordance with the development plan unless material considerations indicate otherwise none of which apply here.

9.5 Finally, and as noted above, the views of Kent Highways Services are awaited. I will update Members at the meeting.

**10.0 RECOMMENDATION – REFUSE** for the following reason:

1. The proposal does not represent sustainable development. By virtue of its isolated location outside any well-defined urban boundary, the lack of the prospect of residents being able to integrate with the existing communities, the lack of almost any community infrastructure and the limited public transport to service the site which will result in a car dependent population. Furthermore the development will detract from the intrinsic character and beauty of the countryside. This harm both significantly and demonstrably outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough and to the provision of affordable dwellings). Development is therefore contrary to policies SP1, FAV1, SH1, E1, E6, E9, E19, H2 and RC1 of the Swale Borough Local Plan 2008; and to policies ST1, ST3, ST7, DM9, DM10, DM14, DM19, DM24 and D26 of Bearing Fruits 2031, the Swale Borough Local Plan. Development would be contrary to paragraphs 14, 17, 49, 55, 110 and 134 of the National Planning Policy Framework.

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 to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

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

Case Officer: Heather Murton

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.