



The Planning Inspectorate

## Appeal Decision

Inquiry held on 22 & 23 March & 15 April 2016

Site visit made on 24 March 2016

by **Terry G Phillimore MA MCD MRTPI**

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

Decision date: 04 May 2016

**Appeal Ref: APP/V2255/W/15/3135521**

**Norton Ash Garden Centre, London Road, Norton, Kent ME13 0SZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by BMW (UK) Trustees Limited against the decision of Swale Borough Council.
- The application Ref 14/505933/FULL, dated 21 November 2014, was refused by notice dated 23 April 2015.
- The development proposed is the change of use of the land from garden centre to residential comprising the construction of 67 no. houses.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. A unilateral undertaking containing planning obligations pursuant to section 106 of the Act was submitted at the inquiry.
3. Amended plans have been prepared by the appellant during the appeal. These show some revisions to layout, in particular with respect to parking provision. The amendments overcome the objections raised by the local highway authority with regard to parking and other aspects of on-site highways layout, as reflected in the reasons for refusal on these grounds. Neither the Council nor any other party has raised objection to the development being considered on the basis of the revised plans. The changes are relatively minor, and their acceptance would not give rise to any prejudice. I therefore proceed to consider the appeal on that basis.

### Main Issues

4. The main issues are:
  - a) the implications of the local housing land position including with respect to the application of relevant development plan and national policies;
  - b) the effect the development would have on the character and appearance of the area;
  - c) whether there are significant shortcomings in the sustainability of the site's location;

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- d) whether the proposal overall amounts to sustainable development.

### **Reasons**

#### ***Development plan and housing land supply***

5. The 9.1ha site is on the south side of the A2 in the section between Faversham and Sittingbourne in a rural location. It is no longer in use as a garden centre, and the remnants of this are derelict with some areas of hardstanding.
6. Policy SP1 of the Swale Borough Local Plan 2008 requires proposals to accord with the principles of sustainable development. Principle 2 promotes the more efficient use of previously-developed and other land within urban areas. Policy SH1 sets out 6 tiers of a settlement hierarchy. Lewson Street, the nearest settlement to the appeal site, is within tier 5 as a minor development settlement where development is to be limited to infill or redevelopment within the defined built-up area. Policy E6 deals with the Countryside, which is all the land falling outside the defined built-up area boundaries. Permission will be given here only for limited categories of development, none of which apply to the proposal. Policy H2 specifies where permission for new residential development will be granted on allocated sites and within the defined built-up areas. Elsewhere, permission will only be granted in accordance with exceptions, including those of policy E6. Again, the proposal does not fall within these.
7. The proposal for residential development of this site outside a built-up area in the countryside therefore does not meet any of the policy exceptions, and is contrary to the above policies. It is thereby not in accordance with the development plan because of the fundamental nature of this policy conflict, which would involve a significant breach in view of the scale of the proposal. A finding in favour of the proposal is thus dependent on there being other material considerations to override the development plan. There is no dispute on this matter.
8. The National Planning Policy Framework sets out a presumption in favour of sustainable development. Paragraph 14 indicates that, for decision-taking, this means, where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
9. The Framework sets out an aim in paragraph 47 to boost significantly the supply of housing. It requires that 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 the housing market area, as far as is consistent with the policies set out in the Framework. They 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. The Framework indicates that the buffer should be increased to 20% where there has been a record of persistent under delivery of housing.

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10. According to paragraph 49 of the Framework, 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. The above policies are agreed to be such policies on the basis of their potential effect in influencing the supply of housing land by restricting the locations where new housing may be developed.
11. There is no dispute that the Borough is unable to demonstrate a five-year housing land supply, so that paragraph 49 is engaged. Having regard to this paragraph, the above policies are not up-to-date.
12. The Council argues that progress on the emerging Swale Local Plan (Bearing Fruits 2031) is relevant to the weight that should be given to these policies. This was submitted for examination on 20 April 2015, and the examining Inspector has produced Interim Findings. The Council accepts that in its submitted form the plan has in essence been found to be unsound, but relies on the Inspector's indication that the shortcomings can be dealt with by way of main modifications. It is argued that this process has identified a clear pathway and timetable for the modifications to be achieved, with a realistic adoption date for the plan of 2017.
13. In particular, reliance is placed on the Inspector's endorsement in the Interim Findings of the emerging settlement strategy. The essence of the strategy is an approach to development based on a hierarchy of settlements, therefore carrying forward that of the currently adopted plan which includes restraint on development in this location. The Council argues that the proposal is not in accordance with the strategy, in the same way as it conflicts with the adopted plan.
14. The main modifications include an increase in the housing requirement towards meeting objectively assessed need (OAN) to 776 dwellings per annum, compared with 540 per annum in the submitted version of the plan. The Inspector has found that the Council's work to update the evidence base demonstrates that there are sufficient sites available to enable it to deliver the full OAN for the plan period whilst maintaining the settlement strategy of two planning areas, and indicated that the Council should therefore proceed to allocate sites to meet the revised target of 776 per annum. With respect to site allocations, the Inspector has concluded that the evidence base produced by the Council represents a robust and methodical analysis of non-allocated sites, and provides a sound basis for the Council to allocate additional sites to deliver the OAN. Publication by the Council of a list of allocated sites is imminent, and is not anticipated to include the appeal site.
15. The Local Plan examination is the forum by which to address the methodology of the Council's evidence base and the appropriateness of the strategy, and the relative merits of individual allocated and other sites including the ranking given to the appeal site. The Inspector has commented that the Council has a difficult but not impossible task ahead in managing the allocation of additional sites whilst maintaining the settlement strategy and taking account of localised infrastructure and environmental constraints.
16. The most recent evidence of the current five-year supply position is that it is around 3.14-3.17 years. This is a significant shortfall, which carries substantial weight. This is especially so against the intention of the Framework to boost significantly the supply of housing. Although the Council considers that it will

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be able to demonstrate a five-year supply in around 18 months, that will clearly not be straightforward, and only limited confidence can be placed on this timescale which is not fixed.

17. The proposal represents only a small fraction of the total housing provision required to come forward over the plan period under the increased target. A grant of permission would therefore not undermine the plan-making process, and as the Council accepted at the inquiry there is no material issue of prematurity in relation to the emerging plan.
18. Nevertheless, it appears that significant progress is being made towards improving the housing land supply position in the Borough, bearing in mind the recent substantial increase in the identified housing requirement. In addition, the general approach of the out-of-date policies to the location of development in the Borough has been endorsed as part of the settlement strategy of the emerging plan. On this basis moderate weight can be attached to the out-of-date policies as they reflect this approach.
19. In the current case, two specific purposes of the policies are particularly relevant, involving protection of the countryside and its landscape, and achieving a sustainable distribution of development. These are now examined in relation to the issues that follow in order to assess the weight that should be given to the out-of-date restrictive policies in these respects.

***Character and appearance***

20. The site is relatively flat and slightly elevated from surrounding roads. Aside from the areas of hardstanding it comprises grassland and unmanaged shrub woodland. There is a central access from the north boundary onto the A2 London Road. Immediately to the east of the site is a single detached dwelling, with an intervening substantial tree screen. Adjacent to the west boundary is the narrow Norton Lane which joins London Road as part of the Norton Ash crossroads. On the west side of the crossroads is a petrol filling station and an adjacent tyre depot, car sales and office building. The main part of the small village of Lewson Street lies 500m to the south-west, reached by Norton Lane. To the south the site adjoins farmland.
21. The proposed development would utilise the existing access from London Road, with a new internal road network linking to private driveways. Two orchard blocks would be created on the London Road frontage, on either side of the access. There would be woodland buffers around the eastern, southern and western perimeters comprising retained trees and new planting, and an avenue of trees along the main spine road. There would also be areas of open space within the site and an allotment area. The proposed dwellings would be a mix of detached, semi-detached and terraced units of two storeys, with a predominance of larger detached houses and a relatively low overall density.
22. In terms of landscape character, the site falls within the Eastern Fruit Belt as defined in the Landscape Assessment of Kent 2004. At the district scale, it lies in the Lynsted Enclosed Farmlands as defined by the Swale Landscape Character and Biodiversity Appraisal 2011.
23. The appellant has carried out a formal Landscape and Visual Appraisal of the proposal. This follows a conventional methodology, which is not challenged by the Council. It finds that the immediate locality around the site possesses



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many of the key characteristics of the regional scale Eastern Fruit Belt Character Area. However, the site itself exhibits only some of these features, in particular in that it is enclosed and has areas of strong woodland blocks. It does not currently contain any orchards or large pockets of open farmland that are typical of this rural area.

24. On this basis, and having regard to the existing partially derelict and unmanaged nature of the site and the presence of uncharacteristic and detracting features, the appellant assesses that the condition and value of the site is poor and the sensitivity to the particular development proposals is low. In my opinion, despite the site's agreed previously developed status, the current lack of structures and the extent of vegetation cover make a minor positive contribution to the rural aspect of the locality by way of a predominance of natural features. Nevertheless, the site is not covered by any national, regional or local designations to indicate an identified landscape importance (beyond being countryside). There is no convincing evidence to establish that the location should be regarded as having the status of a valued landscape under paragraph 109 of the Framework.
25. In landscape character terms, the proposed retention and reinforcement of existing woodland blocks and the new orchards along the north boundary would be in keeping with the Eastern Fruit Belt character. While the appellant considers that this would be a positive impact by comparison with the baseline position, due to the limited scale of the effect and the degree of isolation of the site it is appropriately acknowledged that the change would be too small in isolation to influence the character of the landscape character area as a whole.
26. At the more local level the appellant again asserts that there would be a positive landscape impact. This is claimed from the above vegetation effects and also from the creation of what it is argued would be a small, high quality rural settlement of traditional Kentish construction and appearance. I do not find this persuasive. The settlement type identified in the Lynsted Enclosed Farmlands Character Area is of small isolated historic villages and farmsteads, medieval houses, twentieth century infill housing, and with a characteristic development pattern one building deep alongside lanes and roads. Within the parish of Norton, Buckland & Stone, in which the site lies, there is correspondingly a dispersed distribution of settlement with relatively small pockets of housing. The closest at Lewson Street comprises around several dozen houses of various ages distributed along rural lanes with a main core and a few outlying dwellings.
27. In contrast, the proposal would introduce a single development of 67 dwellings with one vehicular point of access from the adjoining main road network. Although the buildings would display vernacular elements in their designs, and a degree of variety in detail and orientation, the prevailing character would be of an essentially suburban low density cul-de-sac type rather than one typical of this rural area. As the Council argues, there is nothing notably radical or indicative of a new model hamlet in the design. Despite the provision of footpath links across the site, the development would be of an inward facing nature. The appellant was unable to identify any existing residential estate development of this scale within the 3km study area of the appraisal. The proposal would therefore be an uncharacteristic form of built development in the locality, and the extent of incongruity would result in a degree of negative impact on landscape character.

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28. The adverse effect involves the relationship of the proposal to the rural setting rather than intrinsic shortcomings in the design of the scheme, which in itself can be regarded as of reasonably high quality. Further, in visual terms, the site at present has a restricted visual envelope. With the proposed retention and reinforcement of boundary vegetation, that would remain the case. The proposal would result in some changes to views from locations to the north of the site, which are gained predominantly from a part of the A2 adjacent to the site and a short section of footpath to the north-west. These views are mainly experienced by those in vehicles travelling along the A2, and are agreed not to represent high value amenity or recreational views due to the detracting influence of the main road. The proposed new orchard blocks would be a positive visual element along this section of the A2, in keeping with the fruit belt quality of the locality. There would also be a benefit from removal of the existing derelict visual elements on the site.
29. It is likely that views of the new houses from outside the site would be limited to glimpses due to the set back of the development and boundary screening. The external visual effect of the development would therefore be largely neutral or a minor positive one. Within the site there would be a strong appearance of housing development replacing a largely natural landscape, which is a negative impact given the countryside location, despite the agreed previously developed status of the site.
30. The Council contends that the proposal conflicts with policies E1, E9 and E19 of the Local Plan. These policies set out general development control criteria, seek to protect the quality, character and amenity of the Borough's landscape, and require development to be of a high quality design. Generally I regard the scheme to be of an appropriate quality, and where significant conflict with these policies arises it is from the impact on landscape character and appearance of the introduction of a substantial housing estate within an open rural site rather than as a result of design shortcomings of the scheme. Conflict with the recognition sought by the Framework of the intrinsic character and beauty of the countryside is limited in the same way. Such conflicts can be expected to arise from any residential development in the countryside. In this case there would be no loss of agricultural use, and the site is previously developed land. There would be some minor landscape benefit from the new orchard planting to offset the adverse effects, and the overall degree of harm would be no more than moderate.
31. In terms of landscape impact the proposal would therefore not seriously harm any specific purpose of the out-of-date countryside protection policies that is additional to a resistance in principle to housing development in this location. The degree of adverse impact of the proposal on character and appearance does not warrant any more than limited weight being placed on the policies in these respects.
32. A further consideration is what is agreed to be a viable fallback position. This involves implementation of a permission granted in 2001 for a 'major garden centre and family attraction based on a range of open air attractions'. The approved scheme includes 13,675sqm of covered floorspace for garden centre and related uses with 750 car parking spaces on the London Road frontage. The permission remains extant due to partial implementation by way of frontage works. Comparisons of the current proposal with that scheme need to take account of the very different nature of the uses and benefits that might

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arise from it. Nevertheless, it appears that the approved development would comprise prominent, uncharacteristic features in the form of large areas of hardstanding, car parking and modern commercial buildings. This would involve an extent of intrusive urbanisation in the character and appearance of this rural locality. Assessed against this background, the proposal would result in a notably reduced degree of landscape harm.

#### ***Sustainability of location***

33. Paragraph 55 of the Framework is cited both in favour and against the proposal. The appellant relies on the first part of the paragraph, which 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. Conversely, the Council argues that this requirement is not met, and that the avoidance of new isolated homes in the countryside as sought by the second part of the paragraph is applicable (with none of the illustrative special circumstances that can justify such housing being relevant in this case, which is not disputed).
34. The appellant describes the proposal as a 'village style' development. However, other than some allotments and areas of open space/playspace, it would contain no community facilities. As set out above, it would in essence be a suburban-type housing estate. Existing services dispersed around Lewson Street comprise a public house, village hall, church, some sports facilities, and a convenience shop at the petrol filling station. The appellant expects these various services to be used by occupants of the development in the same way as they are said to be used by residents of Lewson Street and the other nearby small groups of dwellings within the local area, arguing that this would thereby help to support these services and others further afield. However, there is no specific evidence on the capacity and level of existing use of the facilities or the likely degree of benefit from additional patronage. The generalised nature of the appellant's case on this point, and the absence of any addition to local facilities within the development itself (which would substantially increase the number of dwellings in the area), are factors that limit the weight that can be given to a potential boost to vitality of the rural community.
35. Conversely, I agree with the appellant that the term 'isolated homes' does not apply readily to a development comprising 67 dwellings that could accommodate up to around 200 persons. The new homes would neighbour a large number of others within the development itself, as well as being relatively close to existing dwellings in the local area, and in that respect would not be isolated.
36. To conclude on paragraph 55, there is no firm evidence that support for existing services would be a significant benefit of the scheme. It would also not give rise to new homes that in themselves could be characterised as isolated. This paragraph therefore is neither strongly in favour nor against the proposal.
37. There is the further question of whether the development as a whole would be isolated in terms of the accessibility of the full range of necessary services and facilities. Here the issue is the need for travel and the scope for this to be by non-car modes.



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38. The local facilities around Lewson Street referred to above are all within reasonable walking distance. Norton Lane has no footway and is a rural lane, but a new footpath link within the site along the west boundary would improve pedestrian connectivity in this direction, such that the facilities could be reached by foot in relative comfort. However, these local facilities are very limited in nature, and could not be expected to cater for many of the needs of incoming residents. This includes the petrol filling station shop; despite comparisons made with a typical village shop, it is likely that this would be used for no more than top-up shopping. For all other services residents would need to travel further afield. Given the scale of the proposal, it would therefore lead to a need for a significant extent of travel.
39. Some higher order facilities are available in the local service centre of Teynham, the main part of which is around 2km to the west along the A2. There is a footway along this part of the A2, and in terms of distance and topography this would be a manageable walk for many people. However, in spite of being largely through open countryside, in my experience the walk was made very unpleasant by the amount and speed of traffic, with a 60mph limit applying on this single carriageway section of road. Although limited as a percentage of overall traffic, fast moving HGVs were a particular adverse factor due to their proximity to the footway. I walked the route at a time when vegetation alongside the footway had been recently cut back. Conditions for pedestrians would be still less favourable with fuller growth narrowing the effective footway, which is likely to be the case at other times. The route is also unlit, and with the nature of the road I regard the appellant's suggestion that in darker hours the flow of traffic would provide constant surveillance that would reassure pedestrians as unconvincing. Overall I consider that this walk would be undertaken willingly by very few residents on the site, and certainly not for example by those with young children as a route to the primary school in Teynham, which lies beyond 2km. The attractiveness of the alternative route of Lower Norton Lane and then westwards along Lower Road would also be significantly limited by distance and the nature of the road with no footway.
40. In terms of cycling, a large part of the latter route, and starting from within around 800m of the site, is on National Cycle Route 1. This connects with Teynham in around 10 minutes, and the towns of Sittingbourne (some 6-7km to the west of the site) in 25 minutes and Faversham (some 4-5km to the east of the site) in 23 minutes. The route and distances are reasonable for keen cyclists, but the narrow rural lanes shared with vehicles would in my view be unattractive to less experienced or committed cyclists even as a route to Teynham, which would also apply to cycling along the A2.
41. A bus route along the A2 connects with Sittingbourne in around 12 minutes and Faversham in around 9 minutes. All of the development would be within 400m of this, with a bus stop proposed to be relocated nearer to the site. The service is twice an hour at peak times and a minimum of hourly otherwise, with other services targeted at school travel. Bus travel could provide a means of access to the higher order services and employment of these towns. However, this in itself does not overcome the need to travel significant distances to the facilities, and it is likely that many would choose the convenience of the private car over bus travel.
42. For travel further afield, as well as the bus to Maidstone, regular trains run from Teynham station to London in the morning and evening peaks. These



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services provide a feasible public transport option. However, it would require travel to Teynham, which for many would involve a car journey.

43. The location therefore offers some choice of travel by bike and public transport, but walking would not be an option to access many facilities and cycling would be attractive only for some residents. Realistically I agree with the Council that in this location the private car would overwhelmingly be favoured and relied upon for the majority of trips given the restrictions of the alternatives and the relative remoteness of the site.
44. Part of national policy in the Framework requires the opportunities for sustainable transport modes to be taken up depending on the nature and location of the site (paragraph 32). A travel plan is put forward for the proposal, which the Framework refers to as a key tool to this end. No additional potential means to encourage the use of non-car modes with the development that have not been taken up have been identified. National guidance also recognises that different policies and measures will be required in different communities, and opportunities to maximise sustainable transport solutions will vary from urban to rural areas (paragraph 29).
45. However, a further aspect of national policy in the Framework is that planning should actively manage patterns of growth in order to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable (paragraph 17). The appellant suggests that the latter does not apply to the scheme on the basis that it does not amount to significant development. There is no specified threshold for this, but in my opinion this proposal for a development of 67 dwellings should be regarded as such. It is notable that its scale exceeds that of any existing residential development in the local area, including the whole of Lewson Street, and it is relatively large also by comparison with the size of Teynham.
46. Consistent with this national guidance on the location of development, Local Plan policy SP1 requires development to be located so as to provide the opportunity to live, work and use local services and facilities in such a way that can reduce the need to travel, particularly by car (principle 8); and be located to promote the provision of transport choices other than the car (principle 9). These policies also accord with the requirement of the Framework (paragraph 37) that planning policies should aim for a balance of land uses so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities. The settlement strategy of the Local Plan of directing development to the most sustainable locations is taken forward in the emerging plan. Having regard to the above assessment, in particular the need for travel that would be generated and the likely degree of car dependence, the proposal is contrary to these national and development plan policies.
47. The above principles as part of policy SP1, in view of their effects in restricting the locations of new housing and the current five-year housing land position, are out-of-date. However, I consider that in the context of this proposal and having regard to national policy they should still be accorded significant weight. While opportunities for sustainable travel are more limited in a rural area, there is no specific reason aside from housing land supply considerations to warrant a housing development of this scale and type to be accommodated within this

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rural location. It would amount to a suburban housing estate off a main road physically disconnected from any existing settlement, and there is nothing material within the development itself that would reduce the need to travel.

48. The appellant cites the Council's inability at the inquiry to identify specific sites towards rectifying the five-year deficit that are in more favourable locations than the appeal site in sustainable transport terms. However, that is not determinative given the progress made towards improving the housing land position through the emerging local plan preparation referred to above.
49. With respect to the fallback position of implementation of the permitted garden centre development, the accepted evidence indicates that this would generate considerably more peak and overall vehicular traffic than the proposal. It is also likely that there would be limited non-car journeys associated with the garden centre. The appellant argues that the appeal proposal would therefore result in a reduction in trips and greenhouse gas emissions. However, the fallback permission is for a very different type of development. There is also no firm evidence on the effect that the garden centre in this location would have on trips to such a facility in terms of diversion from existing centres, or the extent to which visits would be part of existing journeys. Relative comparisons of total travel are therefore difficult to make and lacking a firm basis. In that context I give little weight to this factor, which in itself does not warrant a residential development in an unsustainable location.
50. The proposal is therefore contrary to national and development plan policy on the location of development, and would give rise to harm in terms of need for travel and reliance on car use.

#### ***Sustainable development***

51. The Framework defines sustainable development on the basis of the policies in its paragraphs 18 to 219 taken as a whole. It sets out that there are three dimensions to sustainable development: economic, social and environmental.
52. As noted above, the provision of additional housing is in line with national planning policy, and is an economic and social benefit. This is an important positive aspect of the proposal, particularly with the serious shortfall in housing land supply. Specifically, the provision of a significant number of affordable dwellings (at some 30% of the units), secured by a planning obligation, is a matter that carries substantial weight given the pressing need for such housing. The appellant's evidence that the appeal site could be delivered within 5 years in its entirety is not disputed, and therefore it would provide a significant boost to supply. The proposal would also add to the choice of housing in the Borough by the provision of good quality housing away from an urban location.
53. As well as this new housing, the development would bring a number of economic benefits that are undisputed by the Council, encompassing investment and jobs and local spending. In social terms, obligations and conditions would deal with some needs that would arise from occupiers of the development. However, claimed potential benefits with respect to community vitality lack tangibility in the absence of firm evidence on the circumstances of existing local facilities and how vitality would be maintained or enhanced, and this factor therefore carries limited positive weight.

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54. In environmental terms, the proposal would involve the bringing back into use of previously developed land. The re-use of such land is promoted by national policy, and this is a positive factor. Further, although in a countryside location, there would be no loss of agricultural land. There is evidence to suggest that the use of Best and Most Versatile agricultural land will be necessary to meet the Borough's housing requirements. The accommodation of a significant housing development that would avoid the use of such land is therefore also a positive factor of some weight. There would be some minor landscape benefits, and the overall degree of harm to character and appearance would be no more than moderate.
55. There is no dispute that the proposal would safeguard and enhance habitat and biodiversity by including additional tree and orchard planting, and a variety of open natural and managed vegetation. Potential adverse effects on the Swale Special Protection Area could be addressed by a planning obligation to secure mitigation measures.
56. The appellant's evidence establishes that the traffic impact of the proposal could be satisfactorily accommodated on the road network. However, the proposal would give rise to a significant need for travel, much of which could be expected to be car dependent.
57. By comparison, the landscape and traffic impacts of the fallback garden centre development would be greater. However, these impacts have been accepted by way of the permission granted, and there is no evidence to suggest that they would be unacceptable in themselves. There is some expressed support for that development, and the Council suggests that it would be a community facility. It would also involve re-use of previously developed land. A garden centre would be a potential employment use, but there is no objection to the appeal proposal raised by the Council on any impact on this ground, and no relevant policy or evidence to suggest that it is an important factor. Overall I find that the fallback position does not amount to a strong consideration either for or against the appeal development.
58. The proposal therefore rates well on some aspects of sustainability. However, it amounts to the creation of a suburban housing estate in a rural location with few facilities in the immediate locality. As a result the proposal is not in a sustainable location, and does not represent development in the right place. Taking into account the above performance of the proposal on the three dimensions, and the full advice of the Framework, overall I consider it not to amount to a sustainable development.

#### **Overall Balance and Conclusion**

59. The proposal is in fundamental conflict with the development plan by reason of the location of the site within countryside outside any settlement. However, in the context of the serious shortfall in housing land supply the relevant policies for the supply of housing are not up-to-date. Nevertheless, progress being made towards improving the housing land supply position in the Borough as part of the emerging development plan, and the settlement strategy of this, warrant moderate weight being attached to the policies as an approach to the location of development in the Borough.
60. There would be some minor landscape benefit from the proposal and the overall degree of harm to the character and appearance of the area would be



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no more than moderate. This warrants only limited weight being placed on the countryside protection policies in terms of their landscape purposes.

61. The out-of-date policies also relate to seeking a sustainable distribution of development. The purposes of this accord with national policy, and these elements of the policies and the conflict identified with them merit significant weight.
62. The proposal would deliver a number of benefits, in particular by way of new housing. However, when assessed against the policies of the Framework taken as a whole, these would be significantly and demonstrably outweighed by the adverse impacts of the additional need for travel and likely car dependence that would result from effectively a new suburban housing estate in a relatively remote rural location. The prospect of the fallback development of the permitted garden centre, and the comparison of impacts made with the appeal scheme, do not indicate that a different conclusion should be reached. The proposal overall amounts to development which is not sustainable, as well as not being in accordance with the development plan.
63. For the reasons given above and taking into account all other matters raised I conclude that the appeal should be dismissed.

*T G Phillimore*

INSPECTOR

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**APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY:

<p>Laura Phillips of Counsel</p> <p>She called:</p> <p>Shelly Rouse BA DipTP MRTPI</p> <p>Heather Murton BA DipTP MRTPI</p>	<p>Instructed by Head of Legal Services, Swale Borough Council</p> <p>Senior Policy Planning Officer, Swale Borough Council</p> <p>Senior Planning Officer, Swale Borough Council</p>
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FOR THE APPELLANT:

<p>Reuben Taylor QC</p> <p>He called:</p> <p>Andrew Cox CMLI DipLA BA</p> <p>John Wilde BEng(Hons) MCHIT</p> <p>Michael Drury BA MRTPI</p>	<p>Instructed by Gowling WLG (UK) LLP</p> <p>Head of Landscape, Lloyd Bore Ltd</p> <p>Director, C &amp; A Consulting Engineers Ltd</p> <p>Planning Partner, BDB Design LLP</p>
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INTERESTED PERSONS:

<p>Councillor Lloyd Bowen</p> <p>Anthony Trim</p> <p>Jillian Barr</p>	<p>Member of Swale Borough Council for Teynham and Lynsted</p> <p>Chairman, Norton, Buckland and Stone Parish Council</p> <p>CPRE Kent</p>
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**DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 Inspector's Interim Findings on Swale Local Plan - Part 3
- 2 Plan no. 2485-11A
- 3 Plan no. 2485-14A
- 4 Draft s106 unilateral undertaking
- 5 Completed s106 unilateral undertaking
- 6 Appellant's schedule of policies for the supply of housing
- 7 Council's additional suggested conditions
- 8 Thames, Medway & Swale Estuaries – Strategic Access Management and Monitoring Strategy
- 9 Phase 1 – Bird Disturbance Report (extract)
- 10 Extract from Swale Borough Local Plan Part 1 Publication version (December 2014)
- 11 Extract from Swale Borough Local Plan 2008
- 12 Council's closing submissions
- 13 Appellant's closing submissions