

REPORT SUMMARY

REFERENCE NO - 15/506945/OUT		
APPLICATION PROPOSAL Outline application for residential development comprising of up to 8 dwellings with access and parking. (access being sought)		
ADDRESS Land At School Lane Bapchild Kent		
RECOMMENDATION Grant of outline planning permission for residential development of up to 8 dwellings and full permission for access arrangements subject to the imposition of conditions as recommended.		
SUMMARY OF REASONS FOR RECOMMENDATION The application site is located outside the settlement boundary of Bapchild. Whilst the proposal is contrary to the adopted and emerging Local Plans, the Council cannot demonstrate a 5 year supply of housing land as set out in paragraph 49 of the NPPF, and as such the Council's policies regarding the provision of housing are considered out-of-date. Given this, the application must be considered in the context of the presumption in favour of sustainable development as required by paragraph 14 of the NPPF. The benefits of the proposed development are considered to outweigh the costs to a degree that the proposal constitutes sustainable development, and in the absence of material considerations that indicate otherwise, outline planning permission should be granted, subject to conditions recommended below.		
REASON FOR REFERRAL TO COMMITTEE Objection from Bapchild Parish Council.		
WARD West Downs	PARISH/TOWN COUNCIL Bapchild	APPLICANT Crabtree & Crabtree (Bapchild) Ltd AGENT BDB Design LLP
DECISION DUE DATE 07/01/16	PUBLICITY EXPIRY DATE 07/01/16	OFFICER SITE VISIT DATE various
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): NONE		

MAIN REPORT**1.0 DESCRIPTION OF SITE**

- 1.01 The site lies outside the village confines of Bapchild within a countryside location, approximately 0.8km east of Sittingbourne. The site is bound to the north by School Lane and to the east by Church Street, beyond which there is an expanse of undulating agricultural land. To the west of the site is an existing driveway associated with converted buildings at Morris Court Farm, a Grade II listed building.

- 1.02 The site is located at a prominent location at the junction of School Lane, Church Street, and Panteny Lane. The site lies directly opposite a village green. To the north of the site is an established residential development of the village of Bapchild. To the east, south and beyond the converted buildings at Morris Court Farm the site is surrounded by the countryside and land that is in agricultural use. Bapchild and Tonge Church of England Primary School is located approximately 500m away.
- 1.03 The application site is gently sloping, and rises from School Lane into the site. A belt of tall mature trees line the frontage of the site with School Lane. These trees are protected by a Tree Preservation order (Group Tree Preservation Order of 23 Poplar Trees Group 1 of TPO no. 2 of 1998) and they provide an effective landscape barrier to the site. The site area is approximately 0.69 hectares (or 1.7 acres). The site is located within 2km of the Swale Special Protection Area (SPA) and Ramsar site, and is also located close to parts of The Swale Site of Special Scientific Interest (SSSI). The application site is within an Important Local Countryside Gap.

2.0 PROPOSAL

- 2.01 Outline planning permission is sought for up to 8 dwellings (revised layout plan) with all matters (namely appearance, landscaping, layout and scale) reserved for future consideration except for access, which is to be assessed as part of this application. All other reserved matters are to be considered only in terms of the principle of the development at this stage, and not in detail.
- 2.02 The layout drawings submitted with the application are therefore only intended to illustrate how the development could be accommodated within the site. As the application is in outline form, with only access under consideration at this time, the impact of the development at this stage would only be assessed in terms of the highway network that the development site will be served from. Whilst an indicative layout has been submitted, the actual detail of this, including the ultimate number of dwellings to be built will not be assessed, as this will be the subject of a further reserved matters application, should the current outline be granted approval. The principle of the proposed housing is to be assessed at this stage. It is worth noting though that the maximum number of dwellings will not exceed eight.
- 2.03 The application originally proposed up to 14 dwellings, however, concerns were raised by officers regarding the impact of the development on the character and appearance of the area, the countryside and on the setting of the Grade II listed Morris Court Farm. Subsequent to this, revised drawings were received in June 2016 addressing these concerns. The submitted amended drawing (revised layout plan drawing nos. 2540-02C and 2540-03) – which are indicative only – show 8 dwellings, and the indicative details suggest the development could comprise a mix of detached, semi-detached, and a short terrace of 3 dwellings, and detached and attached car barns spread across the site. The site has, as noted above, an area of approximately 0.69 hectares making a site density of approximately 12 dwellings per hectare. The applicant advises that a total of 24 car parking spaces together with 3 visitor car parking spaces would be provided on site based on suburban standards and in accordance with the Kent Design Guide.
- 2.04 There would be one vehicular access into the site from School Lane and this access would result in loss of two trees. The Planning Statement and Design and Access Statement accompanying the application confirms that secure vehicular and cycle

parking would be provided for all of the proposed residential units. A footway is proposed on the western side of St Lawrence Close to allow pedestrians from the development to cross directly from the footway provision, and the proposed vehicular access is to be designed in accordance with the Kent Design Guide.

2.05 The indicative amended layout (revised layout plan drawing no. 2540-02C) shows dwellings informally arranged and addressing an access road, with the end dwellings addressing a cul de sac. A pedestrian footpath link is shown within the development together with a footpath linking the development to School Lane.

2.06 To minimise adverse landscape and visual effects of this edge of settlement boundary development, a buffer of soft landscaping is proposed around the perimeter boundary of the application site to enclose the development, with a strip of approximately 10m of soft landscaping at the common boundary with Morris Court Farm. A distance separation of a minimum of 7 metres is also shown between the existing protected trees and the proposed development so as to minimise any impact on the protected trees .

2.07 The application is supported by a number of reports including the following:-

- Planning Statement
- Design and Access Statement
- Ecological Appraisal
- Arboricultural Report
- Archaeological Desk Based Assessment
- Foul and Surface Water Management Strategy
- Transport Assessment
- Appeal decision for Brogdale Road/Brogdale Place, Faversham (appended)

2.08 From the above listed reports, I draw the following summarised key points:-

2.09 The Planning Statement

- Delivery of up to 8 dwellings
- Application is in outline form with all matters, except accessed
- Access would be taken from School Lane
- A bulk of the existing trees would be retained
- Site is in a sustainable location and Bapchild is identified as a tier 5 village in the emerging Local Plan
- The attached appeal decision confirms that Swale does not have a 5 year housing land supply and as such the Borough's policies for the supply of housing are not considered to be up to date
- Whilst the site is outside the built up area boundary of Bapchild, it is located at the edge of the village boundary and is well related to the existing settlement pattern
- The impact of the development on the countryside and overall landscape character of Landscape would be minimal
- The site is of low ecological value and the site forms a very small part of an extensive area of Grade 1 Agricultural Land
- The development would not cause harm to the setting of the Grade 2 listed Morris Court
- No affordable units are proposed as the emerging Policy DM8 is at an early stage and has not yet been tested at examination

- The development would be constructed in accordance with Code for Sustainable Homes and SUDS will be incorporated
- The NPPF makes it clear that the presumption should be in favour of sustainable development should be applied and that unless there are adverse impacts that outweigh the benefits of the development, planning permission should be granted.

2.10 The Design and Access Statement

- To the west the site adjoins Morris Court farmhouse which is Grade II Listed.
- The listed farmhouse is not affected by the proposed development and any harm to be caused should be weighed against the benefits of the scheme
- The submitted layout demonstrates how the houses would be accommodated within the site together with access and running areas, a mix of family homes each with gardens and ample parking space for residents and visitors. This layout is for illustrative purposes only.
- The houses will be a mix of detached and semi-detached houses
- The illustrative layout has been informed by the site constraints and characteristics, existing trees and hedgerows, and the proximity of the listed building
- The application is in outline and scale is reserved for future consideration. However, it is envisaged that the houses will be two storey.
- Landscaping is a reserved matter, however, the illustrative layout shows a landscape belt around the north/eastern boundaries, building on the existing protected trees. In addition, a belt of planting is proposed along the southern boundary to create a visible and physical edge to the development.
- Appearance is a reserved matter. The submitted elevations are for illustrative purposes only
- A traditional approach is proposed, influenced by local vernacular, with use of traditional features and detailing, traditional materials such as red and brown brickwork, weather boarding, tile hanging and painted render, and roofing will be a variation of red/antique, brown tiles and joinery will be white timber.

2.11 Ecological Appraisal

- The site is dominated by arable land and also includes semi-improved grassland, a tree line and a number of scattered trees and Bramble thicket.
- A Phase 1 survey was carried out
- The Swale Special Protection Area (SPA) and the Ramsar site and site of Special Scientific Interest (SSSI) are located approximately 1.9km north of the site. The Emley National Nature Reserve (NNR) is located approximately 4.2 km north of the site. The development is not considered to have a significant impact on The Swale SPA/Ramsar/SSSI
- Highstead Quarries Local Wildlife Site is located approximately 1.7km south west of the site and it is unlikely that development of the site would have any direct or indirect impact on fauna species that rely on habitats within the Highstead Quarries LWS
- The proposals are not considered to result in harm to Scuttingham Wood which is an ancient woodland located approximately 1.4km south of the site
- The plot is arable land that is considered to be of negligible botanical value and offers no opportunities for wildlife
- There is a tree of protected trees along the northern boundary of the site which comprises of semi nature mature Poplar trees. These trees provide

opportunities for a range of wildlife. It is proposed to retain this tree line and to propose ecological enhancements where possible

- New tree planting is proposed within the site and this will provide additional opportunities to wildlife
- The existing trees support a sparse covering of ivy which could conceal features such as woodpecker holes used by roosting bats. Mitigations are proposed to protect bat roosts
- Additional landscape planting is proposed to provide linear corridors and cover for use by bats, and to also provide ecological enhancements
- The site is considered unlikely to provide foraging or commuting opportunities for bats
- No badger setts or presence of Badger was recorded within the site
- No significant common mammal species was recorded within the site.
- Bird species were recorded within the site and care should be taken during development
- No reptiles were recorded within the site
- It is highly unlikely that the site supports Great Crested Newts
- No records of invertebrates were located within the site
- A number of biodiversity enhancements are proposed

2.12 Arboricultural Report

- The development will result in loss of Goat Willows (T25-T29) to allow for the access road. These trees are category C
- The development will result in loss poplar Trees (T1 and T2) that are Category B trees to reduce the risk of future impact to driveway by poplar roots
- The existing mature trees have an ecological value as a group
- All retained trees will be protected by use of protective barriers complying with BS5837:2012
- The proposed development will result in invasion of root protection areas of some trees and mitigation measures are proposed
- A detailed Arboricultural Method Statement is proposed to ensure that the proposed development will not cause adverse effects on existing trees as a result of excavations and construction operations.

2.13 Archaeological Desk Based Assessment and Watching Brief on Geo-Environmental Site Investigation

- The site is located in an area of moderate archaeological potential
- the geology of the site is predominantly bedrock of Thanet Formation Clays, sands and silt although artificial deposits of head clay and silt may overlay the bedrock geology
- Archaeological features of any period may be found on this site.
- There is low potential for Palaeolithic flint implements, features of Neolithic and early Bronze Age and Anglo Saxon.
- There is low to medium potential for Iron age or late Iron Age, Roman or Medieval date features on this site
- There is high potential for encountering archaeology of post medieval date associated with Morris Court Farm
- The proposed development will therefore result in a degree of harm to important archaeological remains
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2.14 Foul and Surface Water

- The site lies within the outer groundwater source protection zone.
- The site is very low risk of surface flooding category
- The nearest public sewer is within School Lane and provided sufficient protection measures are provided to the pipe, it is possible to provide a gravity fed connection from the development to the existing public sewerage system
- There is sufficient capacity within the local network to accommodate flows from the proposed development
- The aim is to use suitable SuDS elements to attenuate and dispose of surface water via infiltration
- Water butts, permeable paving, infiltration basins and piped systems are appropriate to the site
- The site lies entirely within Flood Zone 1, land assessed as having a less than 1 in 1000 annual probability of river or sea flooding in any year.

2.15 Transport Assessment

- The site is accessed off School Lane and there are two access points into the site from the A2 Bapchild via School Lane or Panteny Lane
- The site is within a sustainable location where most services are accessible and the traffic generated will have a negligible impact on the local road network.
- There is a railway station at Sittingbourne within 3 km of the site giving rail access to Canterbury, Margate, Faversham, Sheerness and London.
- The site is within 500m of bus routes running along the A2 which offer hourly services between Sittingbourne and Faversham. Furthermore, the site is within 500m of local facilities in Bapchild which include a church, primary school, pub and village and therefore is sustainable.
- The site is accessible to National Cycle Route 1 via quieter routes using Panteny Lane and Hempstead Lane. This gives access to Sittingbourne railway station and the wider cycle path network
- Footway and footpath links can be provided to services within Bapchild and Bus Routes along the A2
- The existing site is greenfield and generates minimal traffic
- Movements are likely to be split between School Lane and Panteny Lane and there would be approximately 35 additional movements along each route daily. This is considered to be an insignificant number of additional traffic movements using these routes.
- The development will incorporate car parking in accordance with Kent Design Guide Review: Interim Guidance Note 3 (IGN3)
- The illustrative layout shows 24 car parking spaces and 3 visitor spaces
- There is sufficient space within the rear gardens of the dwellings to accommodate cycle storage
- Access to the site will be from School Lane and there will be a single access point
- A swept path analysis is provided to demonstrate that a 10.7m long refuse freighter can use the access and turning areas
- The increase in daily traffic movements that will be caused by the proposed development is considered to be negligible
- The local road network is considered to have capacity to accommodate the proposed development
- Visibility splays are considered appropriate for the proposed access

- A 1.8m wide footway is proposed to either side of the site access. A new footway is proposed at the western side of the junction of School Lane with St Lawrence Close to link the development to an existing footway along the eastern side of St Lawrence Close
- The impacts of the development are not considered to be severe and therefore the development complies with the NPPF

2.16 Appeal decision

The applicant has submitted a Planning Inspector's Appeal Decision ref APP/V2255/A/14/2224509 for Brogdale Road/Brogdale Place, Faversham, Kent, ME13 8SX ref SW/13/1567 so as to justify the acceptability of this planning application. This appeal decision is appended.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.69 ha	0.69 ha	0
No. of Storeys	Varied	2 or single storey	
No. of Residential Units	0	Up to 8	Up to 8
No. of Affordable Units	0	0	0
Car parking spaces	0	24	24
Visitor car parking spaces	0	3	3

4.0 PLANNING CONSTRAINTS

- The entire site lies just outside the defined built up area boundary of Bapchild, within the countryside.
- The application site is within land designated as an Important Local Countryside Gap in the adopted Swale Local Plan 2008, and the emerging Local Plan 'Bearing Fruits' 2031.
- Site is within the Rodmersham Mixed Farmlands
- Trees with a Group Tree Preservation Order
- There is potential for important Archaeological remains to be on site.
- The site is within Groundwater Outer Protection Zone II
- The site is located within 2km of the Swale Special Protection Area (SPA), Ramsar site and the Swale Site of Special Scientific Interest (SSSI).

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

The NPPF was adopted on 27th March 2012 and is a material consideration in determining planning applications. Also of importance to the determination of this application is the guidance as set out in the National Planning Practice Guidance (NPPG).

The NPPF relates in terms of achieving sustainable development, building a strong competitive economy, supporting a prosperous rural economy, promoting sustainable transport, delivering a wide choice of quality homes, requiring good design, promoting healthy communities, conserving and enhancing the natural environment, and sustainable drainage systems.

The NPPF sets out the Government's position on the planning system explaining that "The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development (paragraph 14), which should be seen as a golden thread running through both plan-making and decision taking. For decision taking this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out of date granting permission unless:-
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - Specific policies in this Framework indicate development should be restricted."

Paragraph 14 the NPPF makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental.

At Paragraph 47 it states that *"planning authorities should meet local housing needs and identify five year housing land supply with an additional 5% buffer"*. Paragraph 49 states *"that housing application should be considered in the context of the presumption in favour of sustainable development"* and that *"Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites."*

Regarding housing provision, in paragraphs 47-55 the NPPF requires a significant boost in housing supply and states Council's should "identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20%". Paragraph 49 states that housing supply policies should be considered out of date if the Council cannot demonstrate a five year supply of deliverable housing sites.

Paragraph 55 states "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".

Paragraph 56 attaches great importance to design which should contribute positively to making places better for people, and Paragraph 64 of the NPPF states *“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”*

Paragraph 109 requires the planning system to; contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing gains where possible; prevent new development from contributing to or being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil or water pollution and remediating and mitigating contaminated land where appropriate.

Paragraph 112 advocates the use of poorer quality agricultural land in preference to that of a higher quality where significant development of agricultural land is demonstrated to be necessary. The framework does not rule out the development of the best and most versatile land as a matter of principle.

Paragraph 118 requires Council's to aim to conserve and enhance biodiversity and apply numerous principles including; incorporating biodiversity in developments; affording substantial protection to Special Protection Areas and affording Ramsar sites the same protection as European sites.

Paragraphs 129 -132 advise LPAs to identify and assess the particular significance of any heritage asset that may be affected by a proposal including by development affecting the setting of a heritage asset. Significance can be lost through development affecting its setting.

National Planning Practice Guidance (NPPG)

The NPPG also provides general guidance in relation to development. It encourages the provision of housing within sustainable areas, subject to consideration of issues such as local and residential amenity, highways, contamination, noise, urban design / architecture, and ecology, amongst others.

Development Plan:

The Local Plan

The Development Plan for Swale comprises the adopted 2008 Local Plan as amended by paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 in respect of those policies directed to have expired as of 20th February 2011. The emerging Local Plan (Bearing Fruits 2031 Publication Version), is at an advanced stage and having been subjected to an Inquiry by an independent Planning Inspector carries some weight.

The Swale Borough Local Plan 2008 (saved policies)

Also of relevance to the determination of this application are the following saved Local Plan policies;

- SP1 (Sustainable Development and steers development to previously developed land within urban areas)
- SP2 (Environment)
- SP3 (Economy)

- SP4 (Housing)
- SP7 (Transport and Utilities)
- E1 (General Development Criteria)
- E6 (The Countryside, amongst other things seeks to restrict development outside built-up areas)
- E7 (The Separation of Settlements)
- E9 (Protecting the Quality and Character of the Boroughs Landscape)
- E10 (Trees and Hedges - requires proposals to retain trees as far as possible and provide new planting to maintain the character of the locality)
- E11(Protecting and enhancing the Borough's Biodiversity and Geological Interest)
- E12(Sites designated for their importance to biodiversity or geological conservation)
- E14 (Development Involving Listed Buildings or the setting of Listed Buildings)
- E16 (Scheduled Ancient Monuments and Archaeological Sites)
- E19 (Achieving High Quality Design and Distinctiveness)
- T1 (Providing Safe Access to the Highway Network)
- T3 (Vehicle Parking for New Development)
- T2 (Essential Improvements to the Highway Network)
- T4 (Cyclists and Pedestrians)
- T5 (Public Transport - T5 requires proposals to be well located in relation to public transport.)
- C2 (Housing Developments and the Provision of Community Services and Facilities - requires developer contributions towards community services and facilities on developments of 10 or more dwellings via an appropriate legal agreement. This application proposes 8 dwellings.)
- C3 (Open Space within Residential Development)
- H1 (Settlement Hierarchy)
- H2 (Providing for New Housing – advises that permission will be granted for residential development on allocated sites or within built up areas but that outside such areas such development will be restricted in accordance with policies E6 and RC3.
- H3(Providing Affordable Housing- requires 30% affordable housing on developments of 15 dwellings or more which are to be of a suitable size and tenure, including rented housing)
- H5 (Housing allocations)
- RC3 (Helping to Meet Rural Housing Needs)

Bearing Fruits 2031: The Swale Borough Local Plan Part 1 (Main Modifications – June 2031)

The emerging Local Plan has been submitted for examination and so carries significant weight. Policies include:-

- ST1 (Delivering sustainable development in Swale)
- ST2 (Development targets for jobs and homes 2011-2031)
- ST3 (Swale Settlement Strategy)
- ST4 (Meeting the Local Plan Development targets)
- ST5 (Sittingbourne Area Strategy)
- CP2 (Promoting Sustainable Transport)
- CP3 (Delivering a wide choice of high quality homes)
- CP4 (Requiring Good Design)

- CP7 (Conserving & Enhancing the Natural Environment – Providing for Green Infrastructure)
- DM6 (managing transport demand and impact)
- DM7 (Vehicle Parking)
- DM6 (Managing Transport Demand and Impact)
- DM8 (Affordable Housing)
- DM19 (Sustainable Design and Construction)
- DM21 (Water, flooding and drainage)
- DM24 (Conserving and Enhancing Valued Landscapes)
- DM25 (The Separation of Settlements – Important Local Countryside Gaps)
- DM28 (Biodiversity and Geological Conservation)
- DM29 (Woodlands, trees and hedges)
- DM31 (Agricultural Land)
- DM32 (Development Involving Listed buildings)
- DM34 (Schedules Monuments and archaeological sites)

Supplementary Planning Documents:

The Swale Landscape Character and Biodiversity Appraisal SPD (2011) seeks to support landscape and other policies of the Swale Borough Local Plan 2008. The SPD states that there is a need to retain pattern and diversity in the landscape of the Borough to ensure that character and local distinctiveness are maintained.

The application site falls within, as noted above, the Rodmersham Mixed Farmlands, which are considered to be in poor condition and is “*considered to be incoherent*”. The guidelines are to “*restore and create*”, including restoring and improving “*the remaining landscape structure of hedgerows, shelterbelts, remnant woodland and orchard...*”

6.0 LOCAL REPRESENTATIONS

No letters of representation have been received from neighbouring properties.

Bapchild Parish Council objects and their comments are summarised as follows:

- This site is not a Local Plan Allocation
- It is not acceptable that the potential shortfall in the Council’s five year land supply will make this site an acceptable option
- Any contribution towards the 5-year housing land supply is unlikely to be either viewed locally as a benefit or make any material difference locally as Stones Farm will make a substantially larger contribution
- The application is at odds with the NPPF
- This site was not supported by members of the public during consultation stage nor was it supported by Swale Borough Council
- The applicant did not engage with residents or the Parish Council and the applicant is attempting to force a development on a community that neither supports the development, wants it or has a genuine need for it
- The village will expand due to the Stones farm housing development
- It is not clear how this development will improve the viability of existing village services
- The Thames Gateway no longer exists and no weight can be given to the location of that particular housing development within Swale

- Access to the site is problematic due to egress onto a narrow rural lane and visibility is poor for traffic approaching from Rodmersham
- School Lane cannot be used as a primary connection to the A2 due to the highway safety concerns which are considered to be incapable of improvement
- Panteny Lane is not a suitable alternative given that it is a rural lane
- The site is located outside the built up area boundary of the village and should be seen as development in the countryside
- The applicant is unable to demonstrate that this development would contribute to enhancing or protecting the intrinsic value of the countryside or the vitality of the rural community
- The applicant has not demonstrated the social, economic and environmental benefits of the scheme
- Policy DM 24 seeks to protect and enhance landscapes and it has not been demonstrated that there are any social or economic benefits that would outweigh the aims of this policy
- The site is located within an identified local countryside gap and policy DM25 seeks to prohibit development in this area unless the site is allocated for development in the Local Plan, of which this site is not
- Whilst the applicant argues that this development is limited in scope, policy DM25 seeks to prevent encroachment and piecemeal erosion by built development or changes to the rural open character
- Policy DM31 seeks to restrict development on Grade 1 agricultural land unless there is an overriding need that cannot be met on land within the built up area boundary. No such need is established in this application, this is not an allocated site for housing, and the housing development at Stones Farm fulfils all these requirements
- Whilst the applicant argues that the benefits of the scheme outweigh the impact on the landscape and the loss of agricultural land. However, the benefits of the scheme are not detailed
- The site has historic problems of flooding and land slips and the applicant may not be aware of this
- Whilst the application is in outline with all matters reserved for future consideration other than access, a higher density of development has implications on this site
- The development would cause harm to the Grade II listed Morris Court Farmhouse
- The proposed public footway on the Village Green is not acceptable
- The impact of the development on the landscape, on the setting of the Grade II listed building and the loss of Grade 1 agricultural land cannot be mitigated
- The cumulative impact of redeveloping similar adjoining parcels of land into housing will have the potential to cause irrevocable harm
- The development fails to meet the local plan and there are no overwhelming benefits to outweigh the policy objection
- There is no affordable housing contribution, no economic benefits, and the development adds nothing in terms of housing supply that cannot already be met

7.0 CONSULTATIONS

- 7.01 Kent County Council Flood Risk Project Officer advises that the general principles outlined in the submitted surface water drainage strategy are acceptable subject to the confirmation of the required storage volumes for surface water within the

proposed infiltration basin. Any infiltration area or devise should be located at least 5m from any proposed building. They recommend that ground investigation should assess the risk of ground instability occurring as well as confirming the infiltration rates in the areas of the infiltration basin and permeable pavements. Overall, they do not raise an objection to the development subject to conditions requiring submission of a sustainable surface water drainage scheme for the site, no occupation of the building until details of the implementation, maintenance and management of the sustainable drainage scheme has been submitted to and approved by the Borough Council, and that there shall be no infiltration of surface water into the ground other than with the express consent of the Borough Council.

- 7.02 The Medway Internal Drainage Board (Medway IDB) advises that the site is outside of the Board's district and provided that surface water runoff is not increased the proposed development is unlikely to affect IDB interests. However, they note that the applicant proposes to dispose of surface water runoff by means of soakaways. Details of drainage should be agreed in direct consultation with KCC's Flood Risk management Team. Should the use of soakaways prove to be impracticable details of an alternative drainage proposal should be explored and discussed with Medway IDB.
- 7.03 Southern Water raises no objection to the application. They advise that a formal application for a connection to the public sewer is required and recommend a condition to be attached if planning permission is given to the proposed development. Conditions should require that development should not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the Borough Council, and an informative advising that a formal application for connection to the public sewerage system is required to service this development, and that should any sewer be fund during construction works, Southern Water should be contacted as an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.
- 7.04 Kent County Council Ecology advise that they have reviewed the updated Ecological Survey and advise that a number of the protected trees have ivy growth which may serve to hide features of potential for roosting bats. If planning permission is given, it should be conditioned that the ecological scoping survey be updated to include a map clearly showing where the Category 2 trees are located. Bats are likely to forage or commute along the site boundaries. The lighting of the proposed development must be designed to minimise the impact on foraging or commuting bats particularly along the northern boundary of the site. The site has limited potential for reptiles and badgers and as such it is recommended that there should be precautionary mitigation if implemented during the construction period. In addition, the trees and hedgerows within the site have potential to be used by breeding birds and all nesting birds and their young are protected under the Wildlife and Countryside Act 1980. Vegetation should only be removed outside the breeding season. The application also proposed a number of recommendations to incorporate biodiversity enhancements in to the site. Furthermore, the application site is located within 2km of the Swale SPA, Ramsar and SSSI and development will cause an impact on the three SPA and Ramsar Sites due to an increase in recreational pressure, and as such the developer would be required to mitigate the impact by making a contribution towards the preparation of Coordinated Strategic Access Management and Monitoring Strategy.
- 7.05 Kent Highway and Transportation Services advise that with regards to the principle of a development of this scale, whilst the junction of the A2 and School Lane can be

congested with traffic, it is mainly during the morning and afternoon when children are dropped off and picked up from school. In addition, given the location of the application set in relation to the village, traffic from it is likely to divide their routes to the A2 through both School Lane and Panteny Lane, and a proportion will head south along Church Street to access the A20 corridor. The proposed development would result in an insignificant increase in volume of traffic, particularly once it disperses across the various routes. The Highways Engineer concurs with the submitted Transport Statement that traffic generated would be within the daily fluctuations of vehicular traffic. In addition, there is no record of crash accidents within the development area over the recognised three year period and as such it is not considered that a modest increase in vehicular traffic from this development would be likely to increase the risk of any car crashes occurring. Furthermore, the development would not cause a harmful impact on existing local highway network. The NPPF advises that development would only be inappropriate if the highway impact is severe, and it would not be the case in this application.

In terms of the design of the proposed vehicular access, they advise that the amended visibility sight lines are acceptable subject to the amended design and to any landscaping being of a certain height to maintain visibility. Whilst this is an outline application with details reserved for future consideration it is important to note at this stage that at reserved matters stage, the proposed footway on the western side of St Lawrence Close should be extended further to allow pedestrians from the development to cross directly from the footway provision that is shown serving the new dwellings within the application site itself, as this is located on the western side too. In addition, the vehicular access should be widened to 5.5m at the junction in accordance with Kent Design Guide to provide an appropriate junction width to accommodate vehicle movements. This can be secured by condition. Regarding parking, at least 2 independently accessible parking spaces are required per dwelling. Overall, the development is considered to be acceptable subject to conditions.

- 7.06 Kent County Council Archaeology advises that whilst the area around Bapchild appears to have a higher potential for early remains than perhaps expressed in the DBA, KCC Archaeology agrees with the overall conclusions and that the approach should be for further archaeological work to be conditioned on any forthcoming consent and would in the first instance be in the form of an evaluation through trial trenching of the site. They therefore recommend that a programme of archaeological works should be undertaken in accordance with a written specification and timetable to be agreed with the Council.
- 7.07 Natural England advises that the site lies in close proximity to European designated sites and has the potential to affect their interest features. However, Natural England is satisfied that the proposed development would not be likely to damage or destroy the interest features for which the SSSIs have been notified.
- 7.08 The Environment Agency raises no objection to the proposed development and has no comments to make.
- 7.09 Swale Borough Council's Tree Consultant advises that most notable trees on this site are a row of 23 maturing Poplar that lie along the northern boundary adjacent to School Lane. The 23 Poplars are all designated within the Group 1 of tree preservation order 2 of 1998. As individual trees they are of moderate quality, however, as a group they provide valuable landscape feature when leaving the urban estate into the more open countryside. They advise that the revised layout is much improved and would appear to address the previous concerns. Provided the new

access road stays outside the root protection area of the TPO trees there is no objection to the development, subject to the submission of a tree protection plan and arboricultural method statement all in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction. Subject to the above amendment, the Consultant has no objection to the development subject to conditions requiring submission to the Borough Council for approval a tree protection plan, a revised arboricultural impact assessment and an arboricultural method statement in accordance with the recommendations of BS 5837:2012, together with a landscape scheme designed in accordance with the principles of the Council's approved Landscape Character Assessment Guidelines.

- 7.10 SBC Greenspaces Manager originally advised that there is no requirement to provide an open space onsite and that there is a requirement to make a contribution towards the improvement in capacity of the local play area in Randle Way at £861 per dwelling. Given that the proposed development has been revised and the applicant now proposes up to 8 dwellings, there is no longer a requirement to contribute towards a local play area.
- 7.11 SBC Environmental Health Officer advises that the site has no potential for historic land contamination and as such no objection to the development, subject to a condition restricting hours of construction.
- 7.12 SBC Agricultural Consultant – The Consultant advises that the area of land that would be lost may be regarded to be relatively small, however, losses of individual smaller parcels can accumulate and as such significance may be attached to loss of smaller areas of land. He further advises that the Council needs to question whether loss of this land is necessary and whether poorer quality land could have been used. Whilst the applicant's Planning Statement suggests that there are no alternative suitable significant areas of lower grade remaining in the area, the Consultant advises that this may not be the case, and that it has not been satisfactorily demonstrated that there are no suitable areas of lower grade available in the area.

8.0 BACKGROUND PAPERS AND PLANS

Application papers and correspondence relating to planning application reference 15/506945/OUT.

9.0 APPRAISAL

I consider that the key material considerations in the assessment of this application are as follows:-

- The principle of development
- The supply of housing in the Borough
- Is the proposal sustainable development?
- Loss of Agricultural Land
- Impact on the surrounding landscape quality and visual amenity
- Residential amenity implications
- Archaeology
- Impact on the wider setting of the listed building (Morris Court Farm)
- Biodiversity and Ecology implications
- Flood risk /Surface water drainage

- Highway network impact
- Developer contributions

Principle of Development

- 9.01 The key issue for consideration is whether planning permission should be granted for a residential development on a site that lies outside the defined urban confines of Bapchild. In addition, the application site is not allocated for development in the Adopted SLP 2008 or the Emerging Local Plan Bearing Fruits 2031. Policy SH1 of the Adopted Local Plan 2008, and Policy ST3 of Bearing Fruits 2031 sets out the settlement strategy that emphasises development on brownfield land within built-up areas and on sites allocated by the Local Plan. The Local Plan clearly states that within the countryside development will not normally be permitted unless supported by national policy, and if it protects the countryside. Whilst development would be contrary to these policies, this matter is not the only consideration. There are other material considerations in this instance, which must be balanced in order to ascertain whether the principle of residential development on this site is acceptable. It is considered that in considering this issue Members must balance the positives of the development against the negatives.

The supply of housing in the Borough

- 9.02 It must be considered as to whether the application can be supported in light of the Council's current housing position. The Kent County Council Housing Information Audit produced for Swale for 2014/15 indicates that the Council currently has a 4.13 year housing land supply, and as such this demonstrates that there is a shortfall in the required 5 year supply.
- 9.03 I am of the opinion that whilst the site is located outside the urban confines and may be seen as contrary to the Borough's housing policies, these policies carry little weight given the marked shortfall of housing land in the Borough. As such little weight should be given to resisting housing outside built up areas, provided the positives of the development outweigh the negatives. Paragraph 49 of the NPPF further advises that where there is no 5 year housing land supply schemes, development should be considered under the presumption in favour of sustainable development..

Is the proposed development sustainable?

- 9.04 Paragraph 14 of the NPPF makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental. The NPPF expects development to seek improvements across all three dimensions.
- 9.05 It should be acknowledged that the proposals will achieve social gains in terms of the provision of new housing for the community in an area with an acknowledged shortfall. In turn these make a positive contribution towards the economic role of sustainable development by contributing to building a strong, responsive and competitive economy, by helping to ensure that sufficient development land is available to support growth.
- 9.06 With regards to the environmental dimension, the site is reasonably well located in terms of accessibility from services, facilities and amenities with the nearest shops

being at Bapchild (being 900m away and located at the petrol filling station). The services within walking distance include a church, a primary School (Bapchild & Tonge Primary School), a pub and village hall and all are within 500m of the application site. Bapchild residential development is easily accessible by walking or cycling. The site is easily accessible from the A2 (within 600m), there is also a regular bus (hourly 333 bus service from Faversham-Sittingbourne-Maidstone and other services operate on a two hourly basis) and train service from Sittingbourne Train Station. The site is also accessible to National Cycle Route 1 using Panteny Lane and Hempstead Lane, giving access to Sittingbourne railway station and the wider cycle path network.

- 9.07 Given this it is considered that the site is located in a reasonably sustainable location with social, economic and environmental gains, and as such the NPPF's presumption in favour of sustainable development applies. These gains have to be balanced against the impact of locating a housing development as proposed outside the settlement boundary of Bapchild.

Loss of best and most versatile agricultural land

- 9.08 The proposed site comprises best and most versatile agricultural land (BMV = Grades 1, 2 and 3a), which would be permanently lost. Paragraph. 112 of the NPPF expects Councils to take into account economic and other benefits of BMV land and if the significant development of agricultural land is necessary, they should seek to use areas of poorer quality land. Emerging Local Plan policy DM31 also looks for the loss of BMV land to be avoided if possible.
- 9.09 The Council's Agricultural Consultant advises that whilst the area of land that would be lost may be regarded to be relatively small, losses of individual smaller parcels can accumulate and as such significance may be attached to loss of smaller areas of land. He further advises that it has not been sufficiently demonstrated that there are no suitable areas of lower grade land that could accommodate the proposed housing development.
- 9.10 Given the above, it is considered that the loss of BMV agricultural land represents an environmental negative. However, given that the land that would be lost is considered to be an insignificant area of agricultural land (approximately 0.69 hectares) in comparison to the considerable agricultural land of similar quality that surrounds the village of Bapchild, and that any impact caused on the environmental strand of sustainable development would be moderate, this negative would need to be weighed against the overall benefits of the development.

Impact on the surrounding landscape quality and visual amenity

- 9.11 At this stage, the visual impact of the proposal can only be considered in very broad terms due to the uncertainty of all matters of design, height of buildings, materials and layout. Whilst an open field would be lost as a result of the development, the land that would be lost is relatively small as compared to the considerable adjoining countryside. In addition, it is considered that given the informal arrangement of the indicative housing layout, and given the use of spaces and soft landscaping to soften the appearance of the dwelling, the development would be seen as a natural extension of the village boundary. The proposed development is a relatively small

scale scheme that would be seen as a self contained housing development that would not result in the merging of settlements or encroachment into the countryside. Given this, it is considered that any impact of the development on landscape quality would be moderate in scale and would not seriously harm the character and quality of the landscape. Therefore, in this instance, the lack of an identifiable harm to the character and quality of the landscape is a positive factor because of the contribution this makes to the environmental strand of sustainable development, and should be afforded weight.

Residential Amenity

- 9.12 The precise impact on residential amenity arising from the design of the dwellings will be dealt with as part of the subsequent reserved matters application(s), should Members decide to grant outline planning permission. However, in general terms the site is relatively removed from residential dwellings because it is bordered on three sides by non-residential land, whilst to the west the site shares common boundary with Morris Court Farm buildings. The site is considered to be of a sufficient size to accommodate up to eight dwellings with an appropriate area of private amenity space for each dwelling, and with separation distances between each which would ensure that there is no significant overlooking or loss of outlook. In addition, the indicative layout shows a landscape gap of approximately 10m between the proposed dwellings and adjoining Morris Court farm buildings so as to soften the appearance of the development from public vantage points. As such it is considered that any impact on residential amenities would not be unacceptable. The lack of an identifiable harm to neighbour amenity is a positive factor because of the contribution this makes to the environmental strand of sustainable development and should be afforded weight.

Archaeology

- 9.13 The application site has some remains of archaeological importance. KCC Archaeology do not have an objection to the proposed development, but seek the securing of a programme of archaeological work that would be in accordance with a written specification and timetable which has been submitted to and approved in writing by Swale Borough Council. Given this it is considered that the development complies with Policy DM34 of the Local Plan 'Bearing Fruits' 2031. The lack of an identifiable harm on archaeology is a positive factor because of the contribution this makes to the environmental strand of sustainable development and should be afforded weight.

Impact on the wider setting of the listed building (Morris Court Farm)

- 9.14 The revised indicative drawings show a development that is of appropriate density, size and scale, and there is enough distance separation (minimum of 20 metres) to minimise any impact on the wider setting of the listed building (Morris Court Farm) to acceptable levels. Furthermore a landscaping scheme would help to soften the appearance of the proposed development within the wider setting of the heritage asset. As such it is considered that the proposed development would preserve the

significance of the heritage asset, and any impact that would be caused would not be unacceptable. The lack of an identifiable harm to the heritage asset is a positive factor because of the contribution this makes to the environmental strand of sustainable development, and should be afforded weight.

Biodiversity and Ecology implications

- 9.15 The northern boundary of the application site is lined by mature trees with a Tree Preservation Order. Two trees would be lost as a result of the proposed vehicular access. These trees are of moderate quality and given that they are within a group of mature trees, their loss would not cause unacceptable visual harm. In addition, a degree of separation is indicated between the proposed development and the belt of existing mature trees so as to mitigate any impact to acceptable levels. The existing trees and vegetation have the potential to be used by breeding birds. Given that all nesting birds and their young are protected under the Wildlife and Countryside Act 1980 (as amended) it is considered that if planning permission is given for the development, any vegetation should be removed outside the bird breeding season. Furthermore, the applicant also proposed biodiversity enhancements which can be secured by condition.
- 9.16 Given that the site is located in close proximity to the Medway and Marshes Special Protection Areas (SPA) and as such it is likely that there will be some impact on the SPA which would need to be addressed through appropriate mitigation measures. The agent has confirmed their commitment to providing the requested contribution towards the SPA mitigation (£223.58 per dwelling or a total of £1,788.64 for 8 dwellings). However, a contribution is not required for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites. As such, the lack of an identifiable harm on ecology is a positive factor because of the contribution this makes to the environmental strand of sustainable development, and should be afforded weight.

Flood risk /Surface water drainage

- 9.17 The site is not located within an area known to be at risk of flooding, however, is located in a groundwater outer protection zone (Zone II). Overall, there is no objection to the development subject to submission of an acceptable surface water drainage strategy. This can be secured via a condition. The lack of identifiable harm on controlled waters is an environmental positive that weighs in favour of the proposed development.

Highway network impact

- 9.18 Whilst the Parish Council raises concern regarding the impact of the development on School Lane and Panteny Lane and that both roads are narrow and cannot be used as a principal access to and from the A2, KCC Highways and Transportation advise

that the proposed development would result in an insignificant increase in volume of traffic, particularly once it disperses across the various routes.

- 9.19 Overall, it is considered that the proposed vehicular access is considered to be acceptable in principle, and that roads in the immediate vicinity are able to accommodate up to eight dwellings as proposed without causing significant harm to highway network, and that the site is appropriately located to connect to the existing Bapchild Village infrastructure, which includes pedestrian and cycle links, access to other amenities etc. As such, it is considered that the development complies with policies. The lack of identifiable harm on the highway network is a positive factor that weighs in favour of the proposed development because of the contribution this makes to the environmental strand of sustainable development.

Developer contributions

- 9.20 The revised layout proposes up to 8 dwellings on this site and this figure falls below the threshold for provision of affordable housing and making community contributions. As such there are no contributions for this development.

10.0 CONCLUSION

- 10.01 Whilst the proposed development is outside the settlement confines and is in a countryside location where housing development is against countryside and housing policies, in view of the current deficit in housing supply, and given the benefits that would accrue as a result of the development, it is considered that on balance, any benefits that would accrue would outweigh the moderate impact that may be caused by the development. For these reasons the proposed development is considered to represent sustainable development in accordance with paragraph 14 of the NPPF, and as such is acceptable.

- 10.02 It is therefore recommended that planning permission be granted subject to conditions as recommended.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

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

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

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

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

- 4) The development hereby approved shall be carried out in accordance with the following approved drawings in so far as it relates to access, and the site shall accommodate up to 8 dwellings as detailed on amended indicative drawing numbers:

603/201, 603/202, 2540-02C and 2540-03

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

- 5) The details submitted pursuant to condition (1) above shall provide full details of how the residential part of the development will meet the principles of 'Secure by Design'. The development shall be implemented in accordance with the approved details.

Reason: In the interests of public amenity and safety.

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

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

- 7) The details submitted pursuant to condition (1) shall show a buffer strip of no less than 10 metres in width retained (for strategic planting) where the site adjoins the boundary of the adjoining Morris Court Farm buildings. Thereafter development shall be implemented and maintained as approved.

Reason: In the interests of visual amenity and landscape quality.

- 8) The details submitted pursuant to condition (1) shall show a buffer strip of no less than 7 metres as separation distance of the proposed development from the root protection zone of the protected trees fronting School Lane (Group Tree Preservation Order). Thereafter development shall be implemented and maintained as approved.

Reason: In the interests of visual amenity and landscape quality and to protect the trees with a TPO.

- 9) The landscaping details submitted pursuant to condition (1) shall include full details of both hard and soft landscape works including existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Upon completion of the approved

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

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

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

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

- 11) Prior to the commencement of the development hereby approved full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy shall be submitted to (and approved in writing by) the local planning authority. This detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site. The risk of ground instability associated with discharge of surface water into the underlying soils should be assessed and the infiltration rates confirmed with a suitable ground investigation.

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

- 12) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

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

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

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- 14) The details submitted pursuant to condition (1) shall include biodiversity enhancements and a lighting scheme designed to minimise impact on any bats within the surrounding area in accordance with the Bat Conservation Trust's Bats and Lighting in the UK. The details as agreed shall be implemented in full prior to the first occupation of the development.

Reason: In order to secure biodiversity enhancements and to ensure no harm to commuting/foraging bats in the area and to ensure that such matters are dealt with before development commences.

- 15) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded and to ensure that such matters are dealt with before development commences.

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

Reason: In the interests of amenity and road safety and to ensure that such matters are dealt with before development commences.

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

Reason: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents and to ensure that such matters are dealt with before development commences.

- 18) During construction provision shall be made on the site, to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

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

- 19) The details submitted in pursuance of condition (1) shall show adequate land reserved for parking in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the dwellings. Thereafter, no permanent development, whether or not

permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users and detrimental to highway safety and amenity.

- 20) None of the dwellings shall be occupied until space has been laid out within the site in accordance with details to be submitted and approved in writing by the Local Planning Authority for cycles to be securely stored and sheltered.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits and to ensure that such matters are dealt with before development commences.

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

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner and to ensure that such matters are dealt with before development commences.

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

Reason: To protect groundwater which is a controlled water

- 23) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times :-
Monday to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 24) No demolition or construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times :-
Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 25) Prior to the commencement of development a programme for the suppression of dust during the demolition of existing buildings and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity and to ensure that such matters are dealt with before development commences.

- 26) Before any work is commenced on site, a Construction Management Plan, including details of delivery routes and the timing of these, shall be submitted to and approved in writing by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.

Reason: In the interests highway safety and amenity.

- 27) The development hereby permitted shall not be commenced until details have been submitted to and approved in writing by the Local Planning Authority showing a 5.5m wide access and associated off-site footway to link the development to St Lawrence Close. The approved details shall be completed to the satisfaction of the Local Planning Authority prior to the occupation of any buildings hereby approved.

Reason: In the interests of highway safety and convenience.

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

Reason: In the interests of highway safety.

- 29) Before the dwellings hereby permitted are first occupied, the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access and points on the carriageway edge 43m from and on both sides of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 900mm above the nearside carriageway level and thereafter maintained free of obstruction at all times.

Reason: In the interests of highway safety.

INFORMATIVES

1. KCC wishes to make the applicant aware that Superfast Fibre Optic Broadband 'fibre to the premises' should be provided to each dwelling of adequate capacity (internal minimum speed of 100mb) for current and future use of the buildings.
2. The applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure and water supply required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel: 0330 303 0119) or www.southernwater.co.uk.
3. A formal application for connection to the public sewerage system is required to service this development, and that should any sewer be found during construction works, Southern Water should be contacted as an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. (Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel: 0330 303 0119) or www.southernwater.co.uk).
4. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
5. All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area.
6. The IDB's formal consent will be required for any works affecting any watercourse on this site, including drainage outlets, so further details would be appreciated in due course.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located within 2km of the Medway Estuary and Marshes Special Protection Area and Ramsar site which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement may cost more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Borough Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be minimal in my opinion as this is for eight dwellings, cumulative impacts of

multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwellings proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

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:

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 applicant/agent was advised of changes required to the application and these were agreed.

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

Appendices

Planning Inspector's Appeal Decision

SHLLA site SW/453

APPENDIX 1

*Swale Borough Council Strategic Housing Land Availability Assessment 2014-2015
(Addendum)*



SHLAA ref	SW/453
Site address	Land at School Lane, Bapchild
Site area (ha)	0.8
Land owners yield (where appropriate)	23
Density multiplier yield	24
Final SHLAA yield	14
Site description <p>This site lies between the converted buildings at Morris Court Farm and Church Street beyond. It forms a smaller part of a larger submission SW/411. This undulating land is currently farmed.</p> <p>The yield for this site has been reduced from 24 to 14 to reflect the details in the current planning application (15/506945).</p>	
Step 1 – policy constraints <p>There are no policy constraints with regard to ancient woodland, AONB or designated wildlife sites.</p>	Should site progress to Step 2? Yes
Step 2 – suitability <p>This site is located 600m from the A2 with its hourly 333 bus service from Faversham-Sittingbourne-Maidstone. Other services operate on a two hourly basis. The local primary school shop is 518m. The nearest shop (at the petrol filling station) is 906m away and the</p>	Should site progress to Step 3? No

Appendix 4.3 - additional sites forming SHLAA supply (third sweep)

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*Swale Borough Council Strategic Housing Land Availability Assessment 2014-2015
(Addendum)*

nearest GP surgery is at 111 Canterbury Road a distance of 1.4km; both exceed the 800m threshold. The site cannot be considered to be sustainably located.

Kent Highway Services advise that access to the site is considered to be problematical. School Lane is a narrow rural lane and it is envisaged that the School Lane junction with the A2 would be the prime point of access to the development (adjoining Grade II listed Toll House at 1 Fox Hill). Increased use of this access would be resisted in terms of highway safety and is not capable of improvement.

The Council's Urban Extension Landscape Capacity Study (June 2010) identifies the landscape south of the A2 as forming open space between the edge of Sittingbourne and Bapchild. It is noted that there may be some potential to extend the residential development along the southern edge of Bapchild where the landscape is well contained by the rising landform to the south but such development should be small scale and low density. The landscape sensitivity is high and the landscape value moderate. It is considered that the site area put forward, although small scale, would have a moderate impact on the landscape.

In terms of highway issues, the level of traffic likely to be associated with a development of this size is unlikely to have a significant impact on the surrounding highway network, if looked at in isolation. However, if this site was developed in association with others at School Lane (SW/410), there are likely to be concerns.

Whilst the sustainability and specific transport/landscape issues are, in isolation, moderate when assessed cumulatively they are significant and would require mitigation on all issues. This considered prohibitive to development of this site and as such it fails Step 2.

Given that landscape issues could be overcome, the main issue here is the accessibility to services and highway issues. These and the remaining steps are reviewed below.

Re-assessment of suitability constraints, together with commentary on availability, achievability and overall achievability if required for Local Plan housing target.

This site's key constraints are its access to services (GP surgery and shop) and impact on the landscape setting of the village. Access (and its impact on a heritage asset) and landscape impacts remain a likely concern.

In terms of services/facilities the thresholds set out in the SHLAA methodology could be more flexibly applied, bearing in mind that existing residents already need to travel to access medical facilities and so on. Landscape impacts could also be mitigated with additional planting to the new southern boundary of the village, reducing the impacts to one of a more minor nature.

However, access arrangements (and the implications on the listed building) remain more problematical and it is considered that only in the event of critical housing need should this site be considered suitable for housing.

In terms of step 3 (availability), the site has a willing landowner who is prepared to see the site developed, and there is developer interest (Crabtree). Given the attractiveness of the location close to the centre of the village, it is likely to attract interest. There appear to be no other constraints affecting its availability.

In terms of step 4 (achievability), PBA advice is that all sites in the rural area are viable to develop in current market conditions – and are available to accommodate 35-40% affordable housing and a CIL charge.

The site is likely to attract a small to medium sized regional or local developer, with development here likely to be popular with potential purchasers.

In terms of step 5 (overall achievability), this is excellent opportunity for high quality housing in a semi-rural location which is likely to prove popular with developers and purchasers.

Appendix 4.3 - additional sites forming SHLAA supply (third sweep)

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*Swale Borough Council Strategic Housing Land Availability Assessment 2014-2015
(Addendum)*

Review of steps and overall achievability

Deliverable 0-5 years

Appendix 4.3 - additional sites forming SHLAA supply (third sweep)

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Appendix 2



Appeal Decision

Hearing held on 27 January 2015

Site visit made on 28 January 2015

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

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

Decision date: 13 May 2015

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

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

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

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

Preliminary Matters

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

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Appeal Decision APP/V2255/A/14/2224509

Main Issues

5. The main issues in this case are:

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

Reasons

Description

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

Development plan policies

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

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

Emerging local plan policies

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

Issue 1: Supply of housing

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

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

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

Issue 2: Rural character and appearance

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

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

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

Issue 3: Agricultural land quality

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

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

Issue 4: Gypsy and Traveller site accommodation

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

Issue 5: Sustainable development

35. *Paragraph 14* of the *Framework* makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental. In my judgement the proposal would fulfil the economic role of sustainable development and would contribute to building a strong, responsive and competitive economy, by helping to ensure that sufficient land is available to support growth. In terms of the social dimension the scheme would contribute to boosting housing supply by providing a range of sizes and types of housing for the community, including a number of affordable housing units. The site is available and in the absence of any significant constraints could be developed in the near future.
36. As regards environmental considerations the site is reasonably well located in terms of accessibility to the various services and facilities available in the town, including schools. Although the historic medieval core of Faversham town centre is located some distance away it is not so far as to rule out access by walking or cycling. For longer trips alternatives to the private car are readily available with regular train services from Faversham station to London St Pancras and Victoria, Canterbury and Dover. There is also a regular bus service operating along the nearby A2 to Sittingbourne. The proposed 1ha of land to be given over to public open space will increase the opportunity for recreational activities, whilst the proposed pedestrian crossing will make it safer and easier to cross London Road.
37. It is clear from my consideration of the second main issue that in terms of the environment the proposal would have a moderate adverse impact on the rural character of Brogdale Road and the rural approach to Faversham. However it is my view that the positive attributes of the development, in terms of the economic, social and environmental gains outweigh the negative visual impact, and that when taken as a whole the scheme would constitute sustainable development. Consequently the *Framework's* presumption in favour of sustainable development applies.
38. I conclude, therefore, on the fifth main issue that the proposed scheme constitutes sustainable development and therefore the *Framework's* 'presumption in favour' applies.

Other matters

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

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

Conditions

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

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

47. During the construction period various matters, including the parking of vehicles and plant, hours of operation, burning of waste, condition of roadways and dust emissions, need to be controlled to protect highway safety or residential amenity (*Conditions 16-21*).
48. As no exceptional reasons have been put forward the removal of permitted development rights is not justified. As provision for cycle parking would be within domestic curtilages there is no need to require the provision of covered secure cycle parking facilities.

Section 106 Agreement

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

Overall Conclusion

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

Christopher Anstey

Inspector

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APPEARANCES

FOR THE APPELLANT:

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

FOR THE LOCAL PLANNING AUTHORITY:

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

INTERESTED PERSONS:

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

DOCUMENTS

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

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PLANS

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

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SCHEDULE OF CONDITIONS

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

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

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

- 16) During construction of the development adequate space shall be provided on site, in a position previously agreed with the local planning authority, to enable all employees and contractors and construction vehicles to park, load and off-load, and turn within the site.
- 17) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730-1900 hours and Saturdays 0730-1300 hours, unless in association with an emergency or with the prior written approval of the local planning authority.
- 18) No impact pile driving in connection with the construction of the development hereby approved shall take place on site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times: Monday to Friday 0900-1700 hours, unless in association with an emergency or with the prior written approval of the local planning authority.
- 19) No burning of waste or refuse shall take place on the site during construction works other than may be agreed in writing by the local planning authority.
- 20) No development shall take place until measures, including wheel washing facilities, to prevent the deposit of mud and other debris on the public highway have been agreed in writing by the local planning authority. The agreed measures shall be implemented and retained on site during the construction period unless any variation has been agreed by the local planning authority.
- 21) No development shall take place until a programme for the suppression of dust during the construction period has been agreed in writing by the local planning authority. The agreed programme shall be implemented during the construction period unless any variation has been agreed by the local planning authority.