



The countryside charity
Kent

Mr Paul Gregory
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent, ME10 3HT

28th January 2020



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REF.		
	04 FEB 2020	(init)
CHO. D.		
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Dear Mr Gregory,

20/500015/OUT

Outline application for the development of up to 180 dwellings with associated infrastructure including internal access roads, footpaths, cycleways, parking, open space and landscaping, drainage, utilities and service infrastructure works

I am writing in my capacity as Chairman of the Swale District Committee of the CPRE. No doubt you are aware that we are part of CPRE Protect Kent, the Kent Branch of the Campaign to Protect Rural England. We have looked very closely at this application and the supporting documentation, and we are familiar with the site. For the reasons explained below we consider that the application should be **refused permission**.

1. General Points

The work, undertaken in the development of the current Adopted Local Plan, reviewed sites available in the Borough and consulted upon them. The Adopted Local Plan contains a number of sites in Faversham and two (MU5 & MU6) is close proximity to this one. This site is not an allocated one, as we explain below, we feel that no over-riding need to find extra sites to comply with the Objectively Assessed Needs of the Borough at present.

Furthermore, we note the large amount of local opposition to this site. It is our understanding that, in the 1990s the site was under consideration and a local referendum overwhelming opposed the idea. We feel that, for this site, there should be a presumption of rejection.

2. Housing land supply

Recent reports accompanying decisions made by Swale Borough Council indicate that the Borough cannot demonstrate a five-year land supply. This is significant as the NPPF states 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."
para. 49

However, the appeal judgement (APP/V2255/W/15/3135521), which dealt with a development at Norton Ash prior to the adoption of the current plan, showed that the absence of a five-year supply of sites is not "over-riding". Para. 59 of the appeal decision states,

"in the context of the serious shortfall in housing land supply the relevant policies for the supply of housing are not up-to-date. Nevertheless, progress being made towards

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APPENDIX 3

improving the housing land supply position in the Borough as part of the emerging development plan, and the settlement strategy of this, warrant moderate weight being attached to the policies as an approach to the location of development in the Borough.”

The position with regard to a five-year land supply seems to be much more favourable now than it was at the time of this judgment which was delivered when the current plan was in its development stage. Swale has a number of sites allocated in the Adopted Local Plan that are deliverable and will meet the required target. The fact that, recently, two such large developments have been refused and are under appeal is largely the result of the nature of the application and not the fact of the application itself. Once sites are allocated it is up to the developer to “deliver” them within the policies contained in the plan.

Thus, we would argue that the sites currently under appeal (in the form in which they are contained in the local plan) should remain in the assessment of the five-year land supply. Thus, a lack of a five-year supply is not an “over-riding” consideration and cannot be used to dismiss, out of hand, the considerations discussed below.

The second point made in the quoted paragraph above refers to location. As the judgement made clear, weight must be given to the appropriateness of the location, even in the absence of a five-year land supply. As we argue below, the location of this proposal is highly problematic.

3. Flood risk

The area of the proposal lies between two areas of flood risk, according to the Environment Agency’s flood risk map. Indeed, the eastern edge of the site which, according to the plans, is to be open space, is in Flood Zones 2 and 3.

Furthermore, it is sound planning, and in many aspects required under the NPPF, consider the cumulative aspects of sites in a Borough. Not only will the building in the western part of the site increase run-off, the other allocated sites in close proximity will, likewise, increase run-off and hence the risk of flooding. At the very least, this development would require significant extra infrastructure to reduce this risk.

On these grounds we feel that **the proposal should be rejected under para. 2 of Policy DM 21** which says that Swale will

“Avoid inappropriate development in areas at risk of flooding and where development would increase flood risk elsewhere.”

4. Location – loss of countryside and impact on landscape character

The site is located outside the built-up area boundaries of Faversham. Thus, the proposal is covered by **Section 5 of Policy ST 3** of the Adopted Local Plan, which states,

“At locations in the open countryside, outside the built-up area boundaries development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.”

p. 50

Para. 17 of the NPPF sets out a number of Core Planning Principles. One of these requires local planning authorities to recognise “the intrinsic character and beauty of the countryside” whilst another

requires them to “prefer land of lesser environmental value” for development. As such this is an area of countryside that the NPPF would be likely to view as inappropriate for development.

The introduction of an estate of 180 (or more) dwellings clearly does not “enhance the intrinsic value, tranquillity and beauty of the countryside around Faversham. The argument of the developers that the landscape would be dealt with by creating a soft edge on the northern and eastern edges misses the point. The development itself is the element that impinges detrimentally on the landscape.

We, agree with the Faversham Society’s assessment that, as the land is adjacent to an AHLV, the site is highly sensitive and important to Faversham’s identity as a historic market town.

Were **Policy ST 3** to be ignored, it would mean essentially that housing development can be seen as acceptable, in principle, anywhere in the countryside. This is clearly an untenable position and contrary to the importance placed on the plan-led system advocated by the NPPF. The importance of the plan-led system is basic to the NPPF and is not over-ridden by the absence of a five-year land supply.

The application should, therefore, be refused for not complying with para. 17 of the NPPF and policy ST 3 of the Adopted Local Plan.

5. Loss of Best and Most Versatile Agricultural Land

The location of proposal is on land that is in agricultural production. We note the *Rural Planning* report that has been submitted which states that

“The site has been identified as including some 11.9 ha of affected agricultural land, in the “best and most versatile” (BMV) category, comprising a rectangular arable field of which some 3.7 ha is Grade 2 (very good quality) and 8.2 ha is Grade 3a (good quality).”

We fully concur with the conclusion of that report that, despite some of the land being left unbuilt, the result will be the permanent loss of this area of agricultural land.

Giving up high-quality land for development should be robustly justified. This is why national planning policy seeks to protect such land and to steer development to land of lower quality. This is explicitly explained in *para. 112* of the NPPF, which states,

“Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”

This requirement is echoed in **Policy ST 1 (para 11 g.)** of the Adopted Local Plan and in **Policy ST 5 (11)** which invoke **Policy DM 31** of the new Local Plan, which states,

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

1. *The site is allocated for development by the Local Plan;*

APPENDIX 3

2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development

Even if it is accepted that there is an over-riding need for development, the applicants have not shown that there are no other sites involving lower quality land. In accordance with the NPPF, it is the responsibility of the local planning authority to make sure that other, lower quality land is not available - not just in the Faversham area, but throughout the Borough.

Furthermore, this point is reinforced in Policy ST7 covering the "Faversham Area and Kent Downs" explicitly states that development proposals must,

"Unless allocated by the Local Plan, avoid the loss of high quality agricultural land in accordance with Policy DM31."

We consider that there is insufficient evidence to conclude that the proposal overrides *para. 112* of the NPPF or the requirements of **Policies ST 1, ST5, ST7 and DM 31** of the Adopted Local Plan. **For these reasons the application should be refused.**

6. Ecology and Reptile report – see appended map

(Details supplied by CPRE Kent's ecology specialist, Vicky Ellis B.Sc. (Hons), M. Res)

Referring to the reports by the Ecology Partnership, CPRE Kent is at a loss as to why H3 (see map) was not surveyed and why H4 (see map), also not surveyed, was not considered despite it being a young (possibly three-year old) native species hedge. CPRE Kent, having recently visited the site on the 13th of January 2020, found there to be excellent connectivity to surrounding habitat, in stark contrast to The Ecology Partnership's claims of a defunct hedge.

Referring to *page 6, paras 2.2 – 2.4* of the Habitat Report, CPRE Kent is concerned that The Ecology Partnership seems to be unsure of how many *refugia* it had placed on this site. Without knowing how many *refugia* are placed how could they possibly know if they checked them all, let alone that there were 'sufficient numbers to ensure results were achievable' after a number were interfered with by the public? (see App. 1 of their report).

Due to the vagueness of their methodology, CPRE Kent feels the results from the reptile survey are unreliable and therefore should be repeated by a competent and suitably qualified licenced ecologist and that the placings of the *refugia* should be away from public footpaths as much as possible, plotted on a map and include H3 and H4.

With regard to biodiversity, as over 50% of UK bat species are present on site, we would expect there to have been a thorough bat activity survey along with a bird nesting survey and migratory bird survey. We would also recommend that, because of the excellent connectivity, wider habitats type and, as a dormouse nest has been found on the SSSI, that a dormouse survey should also be completed.

On *page 33* the Ecology Partnership has concluded that the habitats within their red line boundary are not functionally linked to the SPA or Ramsar sites. However, as no formal bird survey has been carried out on this site this speculative statement must be regarded with caution.

APPENDIX 3

We have already referred to the flood risk. On page 20 paras 4.24 there is a proposal for foul water to be collected in a system of gravity sewers. These sewers are likely to be increasingly overwhelmed due to frequent extreme weather patterns. The suggestion of further development in terms of a pumping station would serve further to industrialise an open and aesthetically beautiful historic landscape. This reinforces the points we have made on landscape.

Concerning mitigation of the effects of the development, the NPPF states that there should be a 10 per cent net gain in biodiversity. The developer has drawn a red line around the Local Wildlife Site, presumably to use this area a compensation site. However, as this is already an LWS it does not provide any 'gain' as this area is already designated. Therefore, the developer should provide further green space to replace the same area plus 10 per cent that is earmarked for development in order to adhere to the NPPF.

One aspect of concern to CPRE is light pollution and its negative effect on wildlife. Studies have shown that light spill from dwellings and street lighting negatively affect flora and fauna. This area is currently particularly dark and tranquil. With the surrounding countryside and adjacent wildlife site, any artificial light could have a significant effect on flora and fauna and disrupt the habitat. Furthermore, artificial lights can have negative effects on bird species that navigate or hunt at night. Given the absent of relevant surveys, this effect cannot be predicted, or suitably mitigated.

We feel, therefore, that the site is unsuitable from the habitat point of view and, at the very least, proper surveys should be undertaken as outlined above.

7. Traffic

Other objectors have emphasised the effect this proposal would have on the already crowded A2 and the problems of access from the site to the main road. As many of the potential residents are likely to use the rural roads through Graveney, this increase must be considered. The roads run between the SSSI, Ramsar and SPA and increased trips will cause a negative effect on the surrounding protected areas through NOx pollution, recreational pressure and predator increase.

We feel that the effect of this proposal, when considered in conjunction with the other developments in the Faversham area mean that it is unsustainable and hence should be refused.

Conclusion

The points made above mean that our Committee are of the opinion that, despite the lack of a five-year land supply, the application should be refused for being contrary to important Core Planning Principles, the requirements of the NPPF and to a range of policies in the Adopted Local Plan. We trust that the Council will give full regard to the points we make in this response and that planning permission will be refused.

Peter Blandon B.Sc., M.Phil., Ph. D.
Chairman of the CPRE Swale District Committee



