

Comments summary

Dear Sir/Madam,

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 28/06/2023 2:23 PM from Miss Sarah MOAKES.

Application Summary

Address: Land At Abbeyfields Faversham Kent ME13 8HS

Proposal: 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 (All matters reserved except Access).

Case Officer: William Allwood

[Click for further information](#)

Customer Details

Name: Miss Sarah MOAKES

Email: s_moakes@lineone.net

Address: 177 The Street, Boughton Under Blean, Faversham, Kent ME13 9BH

Comments Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Reasons for comment:

Comments:

An irrational decision

There is some irony in the fact that the Planning Officer has chosen to recommend for approval this controversial and unpopular scheme, neither in the current local plan, nor within the settlement boundary, on BMV agricultural land and within view of the town's most historic sites, so as to protect the rest of the borough from the threat of speculative development! He makes no bones about it:

'The size of the scheme at 180 units is useful in terms of the 5 Year Housing Land Supply. Getting the Borough back above 5 years would be a major achievement; placing it back in control over schemes not complying with the local plan. The ability of this towards regaining a 5-year housing land supply counts strongly in favour of the scheme in the planning balance.'

It would appear that he has approached the decision with something of a closed mind, and with a particular end in view.

It is the Officer's contention that since the local plan is now out of date and the council lacks a 5-year housing land supply the so-called 'tilted balance' applies, which means granting permission as per NPPF paragraph 11d unless:

- 'i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed 7; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'

However, he fails to include Footnote 7. which provides a list of exceptions, including 'designated heritage assets... and areas at risk of flooding or coastal change.' The former in particular but also, arguably, the latter are both pertinent here.

Contrary to what is stated, the 'tilted balance' is not applicable in this particular instance. There is therefore no presumption in favour of development.

The Legislation

Under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the local planning authority is required to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

NPPF paragraph 199 stresses that 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'

Paragraph 200 cautions that 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'

Strangely, there are no references to either of the above key policies. Indeed it's fair to say that, while name-checking section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and policies DM 33, DM 34, and CP 8 from the local plan, the NPPF is not even mentioned, a staggering omission. How can the Planning Committee possibly be expected to make an informed decision on this basis?

The area in question is without doubt among the most historically - not to mention archaeologically-rich in the borough, home to a number of heritage assets - some of the highest importance - incl. grade II*, and grade I listed buildings together with a scheduled ancient monument. The Planning Officer's decision to green-light a 180 unit mega-development on its doorstep is nothing short of cultural vandalism, the planning equivalent of a Baedeker raid! In fact

Bearing Fruits expressly states at 4.3.15 that 'the Council will avoid as far as possible the most sensitive locations and ensure that within development proposals, those aspects that contribute to the town's heritage significance are preserved as far as possible.' Presumably this policy too is now deemed obsolete.

Setting

The 'significance' of a heritage asset derives not only from its physical presence but equally from its setting, or as the NPPF puts it: 'The surroundings in which [it] ... is experienced. Its extent is not fixed'. In other words it is not confined to the building itself or even its curtilage but to its wider visibility within its landscape; it can also be defined by less tangible qualities, such as its tranquillity. Naturally, it is in the applicant's heritage consultants' interests to adopt a rather more reductive approach. They maintain that the development will have no effect on the adjacent conservation area 'due to its separation...by a tarmac road and the occluding effect of vegetation.' They'll say anything!

Montagu Evans even have the gall to argue that the creation of 'new views' leading into and out of the development will actually 'enhance' the significance of any nearby listed buildings. Horsefeathers! Mind you, no less risible is the Conservation Officer's bright idea of having heritage display boards strategically placed around the site as a form of 'mitigation' for what has been lost.

It goes without saying that the replacement of open countryside with an incongruous new-build estate, of the type which sadly now encircle and blight the town, will irrevocably transform the landscape setting of these grade I and II* buildings for the worse.

Harm

The NPPF identifies two levels of harm: substantial harm and less than substantial harm. In the case of the former, planning permission should generally be refused. However in the case of the latter, paragraph 202 requires the less than substantial harm to be weighed against the public benefits of the proposal. While it seems the Planning Officer has left the Conservation Officer to judge the level of harm involved, surely this is also a matter for the Committee to consider as well?

The classification of the harm as 'less than substantial' is simply offered up as fact. Granted, this is the Conservation Officer's assessment (and of the applicant's heritage consultants) but is it beyond dispute? The Faversham Society has alleged that the proposals would give rise to 'substantial harm'; it is notable that Eleanor Lakew, Simon Algar's predecessor, felt the harm to the abbey barns 'could be considered to err towards 'substantial harm.'" (True, the layout of the scheme has undergone some minor adjustments but not much; it still amounts to 180 dwellings on a 7.7 ha site, a high density development).

It's also worth pointing out that the definition of 'substantial harm', which the applicants were relying on for their rebuttal of the charge, derived from the Bedford case, and is now out of date following the recent Holocaust memorial decision. That endorsed with the version found in the Planning Practice

Guidance: according to this, substantial harm can occur when development 'seriously affects a key element of [the asset's] special architectural or historic interest' - a much lower bar.

In addition, it is arguable that the more important the asset, the greater the weight that should be attached to preserving its setting. The medieval barns, a surviving link with the C12 abbey, could hardly be more important in heritage terms.

Notwithstanding the above, harm even at the 'less than substantial' level still has the potential to be sufficiently prejudicial to a heritage asset's significance to warrant a refusal of planning permission, in accordance with the balancing exercise.

The Conservation Officer's view

Given the use of the first person, it's unclear whether Simon Algar, the Conservation Officer, is being quoted verbatim or whether this is the Planning Officer summarising his views. The fact is the general tenor of his remarks as reported (broadly supportive), differs markedly from that of 'updated advice note' of 10th Sept 2021 - the only information publicly available on the planning portal. Has he been misrepresented or has he actually changed his mind? It's an important question.

In his 'advice note' he had in fact recommended that the development be reduced in size by some 40 units so as to bring down the harm to an acceptable level, something which the applicants clearly chose to ignore. Funnily enough, only his suggestion about the noticeboards is mentioned. In the Planning Officer's report, he is said to place 'the level of harm... towards the lower end of 'less than substantial'. The advice note, on the other hand, categorises it as 'a lower to mid-level NPPF-framed 'less than substantial harm...', which is higher up the scale. Furthermore, he advises that 'The level of overall heritage impact harm is still however higher than it should be given the national and local policy requirement to limit harm to heritage assets as far as reasonably possible.' The clear implication is that the proposals would not meet the test set by the NPPF.

He felt that the amended layout had not 'gone far enough to minimise impacts and ensure that the wider setting of, and linked appreciation of the highly significant abbey complex (arguably the town's most significant heritage asset) is protected from a further encroachment into its wider setting to the east, which, as the Faversham Society indicates, represents "...the last major place in Faversham where the historic and aesthetic relationship between the ancient town and its countryside survives."

Even though the harm was 'less than substantial', he was moved to 'object to the proposals in their current form because of the unnecessarily high level of overall heritage impact on the historic environment at this location which would arise'

In short, it sounds like the Conservation Officer has (or had) very grave reservations about the development. If this does not now represent his considered view, we are entitled to know what has prompted him to make such a dramatic volte-face.

Conclusion

No surprises that for the Planning Officer, the so-called balancing exercise, weighing up the heritage harms against the public benefits of the proposal, turns out to be something of a no-brainer:

'Although strong weight should be given to the protection and preservation of heritage assets. When weighed against the public benefits of providing new housing and affordable housing, these are considered to outweigh the less than substantial harm identified.'

That (some) new and any affordable housing may be considered a 'public benefit' is not in doubt. Rather it is whether it is in the public interest to build it here - in such a sensitive location -that is the question. Surely SBC has an obligation to consider alternative sites in the borough, which might prove less damaging?

How can speculative development which bypasses the democratic process of a Local Plan (something even the Planning Officer views as inherently undesirable) be construed as a public benefit, let alone one capable of outweighing this degree of heritage harm? Plainly it cannot. To quote NPPF paragraph 189: 'Heritage assets... are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.' They certainly should not be needlessly jeopardised in order to help Swale Borough Council meet its housing targets.

Kind regards