



Mr G Thomas
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent, ME10 3HT

27 March 2014

Dear Mr Thomas

Planning Application SW/14/0045 – Proposed Development of land at Love Lane, Faversham

Thank you for giving us additional time to provide our comments on this planning application.

As you will know, CPRE Protect Kent is the Kent Branch of the Campaign to Protect Rural England which is part of the national CPRE charity. It is our objective to retain and promote a beautiful and thriving countryside that is valued by everyone and we believe the planning system should protect and enhance the countryside in the public interest for the important contribution it makes to peoples' physical and mental wellbeing, as well as its vital role in feeding the nation. It is our position that local planning authorities should seek to ensure that the impact of development on the countryside, both directly and indirectly, is kept to a minimum and that development is sustainable in accordance with national planning policy.

We have looked very closely at this application and the supporting documentation, and we are familiar with the site. For the reasons we explain in this letter we consider that the application should be **refused** permission.

Introduction

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless other material planning considerations indicate that a different decision should be made. This plan-led approach to development is endorsed and enshrined in the National Planning Policy Framework (NPPF - e.g. as explained in paragraph 196). Consequently, the saved policies in the adopted Swale Borough Local Plan (SBLP) 2008 will comprise the primary consideration, though the NPPF and the emerging new Local Plan (published in draft form in August 2013) will be material considerations.

The Kent Branch of the Campaign to Protect Rural England exists to promote the beauty, tranquility and diversity of rural England by encouraging the sustainable use of land and other natural resources in town and country.

Protect Kent, Queens Head House, Ashford Road, Charing, Kent, TN27 0AD Fax: 01233 714549 Email: info@protectkent.org.uk

Phone: 01233 714540 www.protectkent.org.uk

The applicant's planning statement accepts that this is the case, but also seeks to argue that important environmental policies in the SBLP should be put aside because of the support given to the site in the emerging new Local Plan. They also submit that the strategy of the SBLP actually supports the development of the site. We do not accept either of these claims.

Whilst we accept that the emerging Local Plan is a material consideration, it can only be given limited weight as its contents have not yet been finalised. In particular the '*Bearing Fruits*' consultation undertaken in August last year did not propose the site for allocation, but as a 'reserve site' in the event that the Council's preferred site at the Oare Gravel Workings failed to come forward. Contrary to the views expressed by the applicant, the Love Lane site is not currently allocated in the emerging Local Plan so it cannot override important environmental policies in the SBLP that would protect this site from development now.

We are aware that the Council's Local Development Framework (LDF) Panel has now agreed that the Love Lane site should be allocated along with the Oare Gravel Workings site in the new Local Plan, but the precise use (or uses) for which both sites will be allocated, and the quantities of development that might be involved, have not yet been determined. Furthermore, the proposed allocation of the Love Lane site has not yet been endorsed by the Council for inclusion in the Plan¹. Most importantly, there has not yet been any public consultation on the emerging Local Plan with this site as a proposed allocation. It very much remains the case that the content of the emerging Local Plan is still evolving, and we understand that a revised draft is not now expected to be published for consultation until the autumn. All this means that the emerging Plan should be given limited weight in determining the application and that it is the saved policies of the SBLP that remain the primary determining considerations under section 38(6) of the 2004 Act.

With regard to the claims made by the applicant that the application, especially the employment proposals, actually accord with the SBLP we would dispute this. In particular they claim this because the employment sites in the SBLP have failed to be delivered and that the strategy of the Plan would support the development of the application site in preference to these sites. It should not be forgotten that the SBLP was adopted at the start of a deep recession from which the economy is now only just starting to emerge. It is not entirely surprising therefore that all of the Plan's proposals have not come forward as anticipated, and the SBLP is not unique amongst plans in this regard. This is no reason why an unallocated greenfield site should now 'jump the queue' and be granted planning permission ahead of the completion of the new Local Plan and the re-consideration of these existing allocations. This is especially so given that the alternatives comprise land of lower environmental quality and that the NPPF, as a Core Planning Principle, seeks to ensure development occurs on land of lesser environmental value².

¹ The LDF Panel makes recommendations to the Cabinet rather than actually making decisions itself

² See the 7th bullet point in paragraph 17 of the NPPF

The strategy of the SBLP does not support, or promote, large greenfield development such as proposed in this application. The site is clearly at odds with the strategy of the SBLP, which was the clear conclusion of the SBLP Inquiry Inspector who considered a very similar proposal to that now being promoted on this site³. In rejecting the site then the Inspector acknowledged that the acceptance of easy to develop greenfield sites such as this will make it all the more difficult to deliver the more challenging brownfield sites promoted in the SBLP⁴. This remains the situation.

In the context of these introductory comments, the remainder of this letter sets out the particular reasons why the application should be refused.

Prematurity

We would draw your attention to the recently issued National Planning Practice Guidance (NPPG) and the guidance that it gives on refusing planning applications on the grounds of prematurity. This advises at paragraph 014 of the section headed ‘*Determining a Planning Application*’ that applications can be refused on the grounds of prematurity where:

“...the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning.”

A central issue for the new Local Plan to determine is the scale, location and phasing of new development in Faversham for the next 15 years or so. These are matters that the Council is currently grappling with through the work of the LDF Panel. In the context of the strategy of the SBLP and the emerging new Local Plan, both of which seek to restrain development at Faversham, the application comprises substantial development. Approval of this application will undoubtedly undermine the plan-making process by predetermining decisions about the future scale, location and phasing of new development at Faversham. Consequently, and in accordance with the NPPG, the application is clearly premature and can legitimately be refused on this ground. We would strongly urge the Council to do so.

Location and Sustainability

The site is located outside of the built-up-area of Faversham as defined on the Proposals Map of the SBLP, and it is not allocated for development in the Plan. In policy terms, the proposal comprises significant and large scale development in the open countryside contrary to the provisions of saved Policy E6 of the SBLP.

In addition, the edge of town location of the site also makes the site an unsustainable location for development in terms of its relationship to the services that residents will

³ See paragraph 137.3 of the Inspector’s Report

⁴ See paragraph 137.8 of the Inspector’s Report

need to access in Faversham. Indeed the Council's draft Strategic Housing Land Availability Assessment (SHLAA – 2011-2012) concludes that as the site is located on the edge of Faversham it *"is remotely located from a GP surgery, convenience store and School (all located approximately 1.5km away)."* Consequently, the SHLAA concludes that the site *"cannot be considered to be sustainably located"*. The proposal does not include the provision of any of these essential services that would help to prevent such trips elsewhere.

The NPPF seeks to ensure that development is sustainable, and it explains in paragraph 7 that sustainable development has three roles – economic, social and environmental. Paragraph 8 goes on to explain that these three roles should not be undertaken in isolation, and that sustainable development is achieved by ensuring that economic, social and environmental gains are sought jointly and simultaneously. This proposal does not comprise sustainable development in accordance with these requirements of the NPPF. The proposal fails to bring the necessary environmental gains demanded of sustainable development, and in fact results in environmental losses.

The site comprises 16.5 hectares of greenfield land. It is the policy of the SBLP, as expressed in saved policies SP1, SP4 and FAV1, that the amount of greenfield land needed for development should be kept to the minimum in order to promote efficient use of previously-developed land. This echoes the Core Planning Principle listed in paragraph 17 of the NPPF which seeks to:

"encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value"

This is reiterated in paragraph 111 of the NPPF.

The emerging Local Plan (*Bearing Fruits 2031*, August 2013) also embraces this principle, which in point 10h of Policy ST1 sees the use of previously developed land as one of the key components in delivering sustainable development in the Borough. The approval of this application would undermine the Council's ability to achieve this important planning principle, and environmental gain, by pre-empting strategic decisions on the location of future major development in the Borough generally and at Faversham in particular.

Consequently, and in conclusion on this point, the application should be refused because it comprises the development of greenfield land outside of the defined built-up area boundary contrary to saved Policy E6 of the SBLP. Also, because of its remote location and because it involves greenfield land in preference to available brownfield alternatives, it does not comprise sustainable development. Consequently it is in conflict with saved policies SP1, SP4 and FAV1 of the SBLP; Policy ST1 of the draft Local Plan (*Bearing Fruits 2031*, August 2013); and paragraphs 8, 17 and 111 of the NPPF.

Furthermore, because it does not comprise sustainable development, the 'presumption in favour' of sustainable development, as outlined in paragraph 14 of the NPPF, does not come into play and cannot be used to justify and accept the development.

Loss of Grade 1 Agricultural Land

The site comprises land that is in agricultural use. The Natural England mapping of agricultural land shows all the land on the eastern side of Faversham as being grade 1 in quality⁵. The applicant has provided no information to the contrary. Such land is defined as being excellent quality agricultural land where there is no or very minor limitations to agricultural use. It enables a very wide range of agricultural and horticultural crops to be grown, including top fruit, soft fruit, salad crops and winter harvested vegetables as well as the more usual crops. Yields are high and less variable than on land of lower quality.

Food security and maintaining the ability to feed a growing population is an increasingly important national and social issue, meaning that giving up precious 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 paragraph 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.”

Point 10i of Policy ST1 of the emerging Local Plan (*Bearing Fruits 2031*, August 2013) echoes this requirement.

Further guidance on preventing the loss of agricultural land is provided in Policy DM30 of the emerging 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;*
- 2. There is no alternative site on land of a lower grade than 3a; or*
- 3. Use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
- 4. The development will not result in the remainder of the agricultural holding becoming not viable.”*

The proposal does not comply with this Policy. Even if it is accepted that there is an overriding or necessary need for development the proposal does not meet any of these four requirements. The site is not allocated for development; alternative sites involving lower quality land are allocated for employment use in the SBLP and in the emerging new Local Plan; and the applicant has not provided any assessment as to how the loss of this site would affect the viability of the remainder of the farm holding.

⁵ See: <http://publications.naturalengland.org.uk/file/128043>

Therefore, and in conclusion on this point, the application involves the unacceptable use of grade 1 agricultural land in conflict with paragraph 112 of the NPPF and policies ST1 and DM30 of the emerging Local Plan (*Bearing Fruits 2031*, August 2013).

Character of Faversham and its Landscape Setting

Faversham is a small and compact historic market town contained by the A2 to the south, the Western Link to the west, Love Lane to the east and by the Swale Estuary and marshes to the north. Consequently, it is a town with clearly defined edges and a clear distinction between built development and the surrounding countryside. Consequently, unlike other less well defined towns, it has not suffered from suburban sprawl.

Over the last twenty years successive local plans have focused development in the Thames Gateway part of the Borough rather than at Faversham. At Faversham the strategy has been one of restraining development because of the historic character and countryside setting of the town. This difference in strategic approach is articulated in saved policies TG1 and FAV1 of the adopted SBLP. The emerging Local Plan seeks to continue this strategy, and to promote what is described as organic growth at Faversham, i.e. gradual and unforced (see paragraph 4.5.6 of *Bearing Fruits 2031*, August 2013). The application fundamentally seeks to undermine this strategic approach to development at Faversham by promoting a large scale development in the countryside by breaching one of the longstanding boundaries to the town.

This application will change the intrinsic character of Faversham. As concluded by the SBLP Inquiry Inspector, the site “...does not integrate well into the existing compact form of the town”.⁶ As a site that not only breaches the longstanding boundary to the town provided by Love Lane and with no natural containing boundary, it would create further pressures for development in this location - a fear also raised by the SBLP Inquiry Inspector⁷.

Faversham is a town that has strong links with the surrounding countryside, not least because of its rich agricultural heritage and association with brewing. Nestling alongside the creek and confined almost entirely to low lying land it is barely perceptible in views from surrounding areas. This application will see major development beyond the existing town boundary that is alien to the character of the town. It will also be highly visible in the landscape from a range of vantage points. It is important to note that the SBLP Inquiry Inspector concluded at paragraph 121.15 as follows, which continue to hold good:

“I viewed the omission site from a number of close and distant viewpoints, as requested, and also undertook an accompanied inspection of the site and its surroundings. I saw that whilst the site was screened from a number of viewpoints, parts of it can be clearly seen from others. Not only would the nature of this predominantly greenfield land be changed by the presence of an

⁶ See paragraph 137.13 of the Inspector’s Report

⁷ See paragraph 137.14 of the Inspector’s Report

appreciable amount of residential and industrial buildings, but the new roads and the likelihood that there would be some new street lighting would all serve to change the character and appearance of this area.”

At paragraph 121.16 he concluded:

“The development would clearly fail to respect the existing compact form of the town as it would extend significantly beyond the existing eastern confines, as defined by Love Lane, and in my opinion this would result in an adverse visual impact.”⁸

The surrounding countryside helps define the character of Faversham and provides its setting. The application site comprises a large open area and forms part of this countryside setting and it provides the rural setting to Faversham on its eastern side. As shown in the Swale Landscape Character and Biodiversity Supplementary Planning Document (SPD) 2011, the site falls in the Faversham and Ospringe Fruit Belt character area. This character area wraps round the entire eastern and southern sides of the town and provides a unity to the landscape setting of the town. It is a landscape area which the SPD explains is in good condition and where the guidelines seek to encourage the conservation and reinforcement of the landscape and its relationship with the built form, including the setting of the town. The application does not do this, and the open space proposed will be entirely different in character to the existing landscape character area.

In conclusion on this point, the development of this open site, as proposed in the application, will have a profound effect on the countryside and landscape setting of Faversham in this location. It will introduce built development into an area which currently has a continuity of landscape type around the eastern and southern sides of the town. This landscape provides a direct link between town and country that successive local plans have sought to maintain as an integral part of the development strategy for Faversham; a strategy that the emerging new Local Plan seeks to retain. Consequently, due to these impacts the application is at odds with the strategy for Faversham as presented in saved Policy FAV1 and it conflicts with the guidelines for this landscape character area set out in the Swale Landscape Character and Biodiversity Supplementary Planning Document (SPD) 2011.

Development Needs

The application proposes a mix of development, including significant housing development, but essentially it is being promoted on the basis of the employment benefits that it would bring to the town. The justification is that sites allocated in the SBLP have not been delivered. Importantly, and unlike for the other current planning applications SW/13/1567 and SW/14/0015 which also promote significant new housing development, the applicant does not promote the site on the basis of a failure to demonstrate a five year supply of deliverable housing sites as required under paragraph

⁸ Whilst these comments relate specifically to a larger site than covered by the planning application, the Inspector explains at paragraph 137.4 of his report that this conclusion is also relevant to the omission site that is now the subject of this application.

47 of the NPPF. The housing is simply proposed in order to “*supplement the supply of affordable and market housing in Faversham in conformity with the provision of a social role*”.⁹ The housing seems to be included entirely to provide some balance to the application and to provide justification in terms of its sustainability credentials.

With regard to the employment development we would refer you to the points we make in the introduction to this letter and in the section on prematurity. In short, the determination of the amount and most appropriate location for new employment development in the town is a matter for the new Local Plan, not a speculative planning application. Whilst this site might ultimately have a role to play in meeting some of the future employment needs of the town, there are other options that the Council is still investigating. Indeed, the most recently published draft Plan identifies the Oare Gravel Workings site as one such opportunity as well as the redundant NOVA site. Work also continues on the preparation of the Faversham Creek Neighbourhood Plan where other opportunities for employment development are available. Simply because the applicant considers that the Gravel Workings site is an inferior site for employment development does not provide the necessary justification for allowing this application. The fact is that there is no pressing need to provide a large greenfield site for employment development now in advance of the new Local Plan being finalised.

With regard to housing development, there is no need for the 196 dwellings proposed in the application. In the adopted SBLP the housing target for Faversham is 1,000 dwellings over the period 2001 to 2016 (as explained in paragraphs 2.87 and 4.81 of the SBLP). The South East Plan sets a housing target of 700 dwellings for the Faversham area over the period 2006 to 2026 (see Policy EKA3). These currently remain the agreed housing targets for Faversham (notwithstanding the fact that the South East Plan has now been revoked).

From information provided to us by the Borough Council, completions between 2001 to 2013 amount to 1,160 dwellings. As at 31 March 2013, extant planning permissions stood at 249 dwellings whilst a further 60 dwellings have been permitted since 1 April 2013 (by the end of January 2014). It is clearly the case, therefore, that the target of 1,000 dwellings to 2016 set in the adopted SBLP has already been met and exceeded.

In regard to the South East Plan housing target, the same figures supplied to us by the Council show that 643 dwellings were completed in the Faversham area between 2006 and 2013. This, together with the extant permissions shown above, means that the South East Plan target for Faversham has also been met and exceeded.

It is clear, therefore, that the currently agreed housing targets set for Faversham in the adopted SBLP and in the South East Plan have already been met and exceeded. Consequently there is no need for further housing to be permitted now on this greenfield site, and contrary to saved Local Plan policies, in advance of a new housing target being set in the new Local Plan.

⁹ Paragraph 6.2.6 of the applicants planning statement

Whilst other development is proposed as part of the application - notably a hotel, pub, health centre, sports facilities, allotment and a traveller site – these are secondary to the main employment and housing proposals and do not provide any justification for allowing development that is clearly contrary to existing development plan policies. Of course, none of these aspects of the development would be delivered without the employment and housing being allowed.

Transport Issues

Despite its remote location, we accept that there is scope for residents and workers to use public transport (bus) and to access the town centre on foot or by bicycle. However, for the vast majority of trips to and from the site journeys will inevitably be made by private motor car.

The transport statement provided by the applicant relates only to potential impact on Junctions 6 and 7 of the M2 rather than elsewhere on the highway network. With regard to the impact on the M2 junctions it is concluded in the applicant's transport statement that there will be no impact on Junction 6 and negligible additional impact on Junction 7, though it is acknowledged that Junction 7 already operates at above capacity in peak times.

We have two concerns with the application on traffic grounds. Firstly, we are concerned that the proposed development will impact on Junction 7 of the M2 Motorway and it will further increase capacity issues here (as accepted in the applicants transport statement). No mitigation is proposed by the applicant to address this. It is also the case that the analysis presented in the transport statement takes no account of other proposed development in the existing SBLP or in the emerging Local Plan; the application site is considered in isolation.

The impact of development on Junction 7, a Junction which is well known for its capacity problems, is a key consideration in the future planning of Faversham. This will, in part, provide a constraint to the scale and distribution of future development in the town to be determined in the new Local Plan.

The potential impact of the development of this site on Junction 7 was highlighted by the SBLP Inquiry Inspector when considering this site. Reflecting the evidence submitted to the Inquiry by the Highways Agency, the Inspector stated that:

“...as traffic demand at Junction 7 of the M2 currently exceeds the junction capacity, the traffic volumes likely to be generated from this development would adversely affect the operation of the junction.”¹⁰

Presumably the Highways Agency has been consulted on this application and they will give their current thinking on the junction and the potential impacts arising from the development of this site. However, in our view, concerns about the strategic capacity of Junction 7 makes it all the more important why the future planning of Faversham should

¹⁰ See paragraph 137.12 of the Inspector's Report

be undertaken in a holistic way through the plan making process, rather than through ad hoc planning applications. It may be the case that as a result of all the development to be accommodated in Faversham in the Local Plan a significant change will need to be made to Junction 7, to which all developments will need to contribute – for example through the forthcoming Community Infrastructure Levy. Approval of major development now, and in isolation, will mean that the opportunity for a significant contribution towards such improvements will be lost. Consequently, we consider that this is another reason why the application should be refused for being premature.

Secondly, we believe that there will be other impacts on the local highway network, but these have not been assessed. It is already the case that there are traffic queues at the Love Lane/A2 junction in the morning peak as a result of the difficulties in turning right onto the A2. This undoubtedly will get worse as a result of this development. Similarly, traffic travelling into Faversham along Whitstable Road will result in additional queuing at the traffic lights at the East Street and Newton Road/Crescent Road junction. Existing queuing here already results in rat running via St Mary's Road to bypass this junction, and this is likely to increase as a result of this development. Neither of these potential impacts have been assessed by the applicant, and no proposals are made to mitigate them. Obviously the Highway Authority will provide advice on these potential impacts, but to enable the Council to properly consider the application more information is needed from the applicant. Without this the application should be refused.

Conclusion

In conclusion, and having regard to the points we make in this response, there are clear cut reasons why this application should be refused. It is primarily being justified on the basis of providing additional employment opportunities for Faversham, but the proposal also includes a significant number of new houses. These houses are not needed, as current requirements for housing development in Faversham have already been met. There is no pressing need for new employment development now, and the scale and location of future development is most appropriately dealt with through the Local Plan process. The approval of this application would pre-determine these issues and undermine the strategic role of the Local Plan. We believe that there are strong grounds for refusing the application on the grounds of prematurity, as explained in the NPPG.

Given the remote location of the site and its distance from services, most trips will be reliant on the use of the private motor car. This, together with the fact that this is a greenfield site comprising grade 1 agricultural land, means that the proposal does not comprise sustainable development. Consequently the presumption in favour of sustainable development promoted in the NPPF does not apply. This means that the provisions of the development plan prevail. As a result the decision is clear cut and straightforward as the proposal is contrary to the adopted SBLP as we have highlighted in this response. It is also contrary to aspects of the NPPF and the emerging Local Plan, again as we have highlighted in this response. There are also other material considerations, for example in regard to landscape impact and compliance with the Swale Landscape Character and Biodiversity SPD and traffic impacts which also count against the proposed development of this site. The case against development is overwhelming.

We trust that the Council will give full regard to the points we make in this response and that planning permission will be refused.

Yours sincerely

Brian Lloyd BSc (Hons) MSc MRTPI
Senior Planner
CPRE Kent

Cc Peter Blandon, Chairman of the CPRE Swale District Committee