

Swale Borough Council

BY EMAIL ONLY

1 May 2026

Dear Sir/Madam

26/500852/OUT – OUTLINE PLANNING APPLICATION (WITH ALL MATTERS RESERVED EXCEPT ACCESS) FOR FORMATION OF A NEW VEHICULAR ACCESS FROM FORGE LANE AND THE ERECTION OF UP TO 101 NO. DWELLINGS, INCLUDING AFFORDABLE HOUSING, CAR PARKING, PUBLIC OPEN SPACE, LANDSCAPE PLANTING, SURFACE WATER DRAINAGE FACILITIES, PUMPING STATION, HIGHWAY IMPROVEMENTS AND ANCILLARY DEVELOPMENT

LAND NORTH OF FORGE LANE UPCHURCH KENT ME9 7AE

Lander Planning is instructed by **Upchurch Parish Council** to review planning application 26/500852/OUT at land north of Forge Lane, Upchurch. This letter outlines significant concerns and objections regarding the proposed development, on behalf of the Parish Council.

Planning Policy




The relevant planning policies are not listed within this letter. Swale Borough Council is currently reviewing its Local Plan. The local development scheme (LDS) was approved on 30 July 2025. A Regulation 18 consultation took place in January to February 2026, with a Regulation 19 pre-submission consultation scheduled from July to September 2026, and the submission of the Council’s Local Plan for public examination from October to December 2026.

The application site was deemed to be ‘unsuitable’ in the Council’s Housing and Economic Land Availability Assessment 2025 (HELAA).

Planning History

The planning history of the site is outlined in the table below. The site (and other iterations of the extent of the site (as shown in the images below) has a history of refusals for large scale residential planning applications in 2016 and 1981, with an application withdrawn in 1990. The longstanding history of refusals on the site is a material consideration of great weight to the determination of the current application.

Application Number	Proposal	Determination
16/505738/OUT	Outline application for up to 110 dwellings (including up to 30% affordable housing), land for a potential car park for Holywell Primary School for approximately 40 spaces, introduction of structural planting	Refused 24/10/16

	<p>and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Forge Lane and associated ancillary works. All matters to be reserved with the exception of the main site access</p>	
<p>SW/90/0389</p> 	<p>Outline application for residential development of 40 no. houses and flats with car spaces, site development works and landscaping</p>	<p>Withdrawn 26/04/90</p>
<p>SW/81/0397</p> 	<p>Outline application for residential development</p>	<p>Refused 10/06/81</p>

The reasons for refusal of the most recent application 16/505738/OUT relate to:

- Harm to the Conservation Area (the significance of which lies in its open landscaped form, tranquillity and disconnection from the built confines), and loss of rural setting;
- Site being outside of defined urban boundaries and not achieving sustainable development;
- Significant adverse impact on landscape character, quality and value, loss of tranquillity and amenity value of countryside. Visual amenity of PROW users.

Objections to the Proposed Development

The objections to the proposed development are outlined below.

Settlement Strategy, Scale and quantum of Development

The application site is unallocated within the adopted Swale Local Plan and located within the countryside, outside of any built-up area boundary. The proposal conflicts with Local Plan policies **ST1, ST3, ST5 and CP3**, which direct development to higher-order settlements and seek to protect the intrinsic value, landscape setting, tranquillity and beauty of the countryside.

Policy ST3 identifies Upchurch as a tier 5 settlement (other villages with built-up area boundaries). Large scale development is directed to higher tier centres of Sittingbourne, Faversham and Sheerness, followed by other urban local centres, followed by Rural Local

Service Centres. Upchurch is therefore very low down in the hierarchy of where the Development Plan directs development to be located. Development of the scale proposed is not consistent with the role and function of a lower-tier rural settlement.

The scale and quantum of development would materially exceed that which would be appropriate for a settlement of this size and position within the settlement hierarchy. The quantum of development would be at odds with the Development Plan strategy, leading to harm to the character, function and sustainability of Upchurch. The proposal is therefore contrary to Local Plan policies and the Development Plan as a whole.

Other recent application proposals within Upchurch have been for much smaller scale schemes, such as immediately to the south of the site (24/504410/OUT) for 16 units (currently at appeal) and application 23/502056/OUT to the south of the village, for 7 houses. The latter proposal follows a linear pattern of development, effectively squaring off built confines (as acknowledged by the appeal Inspector at paragraph 9, with existing built development to the north, east, south-east and further to the south. Application 26/500852/OUT on the other hand, is for a significantly larger scale proposal, which has a different surrounding context, as outlined in the following section of this letter.

Notwithstanding the Council's lack of a five-year housing supply and the limited local services within Upchurch, it is submitted that the adverse impacts of the proposal, as outlined within this letter would significantly and demonstrably outweigh the benefits¹ (paragraph 11 NPPF). As such, the NPPF's presumption in favour of sustainable development should not be engaged.

Incursion into the Open Countryside and Rural landscape character

The **NPPF paragraph 187** requires planning decisions to: *'contribute to and enhance the natural and local environment'* by: *'recognising the intrinsic character and beauty of the countryside'*. Local Plan policy **DM24** seeks to *'protect and enhance'* non-designated landscapes. Local Plan policies **CP3 and CP4** requires development to conserve and enhance the landscape and retain and enhance features which contribute to local character and distinctiveness. Local Plan policy **ST1** requires the individual character, integrity, identity and setting of settlements to be maintained and in addition, for the intrinsic character, beauty and tranquillity of the countryside to be protected, and where possible, enhanced. Local Plan policy **DM29** seeks the retention of orchard trees and hedges.

Far from 'protecting' and 'enhancing' the landscape, the proposal involves a large-scale intrusion into the open countryside, which would have a harmful effect on the landscape and rural character and appearance of the countryside. The site currently reads as part of the open countryside which extends to the north, to the Swale estuary. This area is tranquil, with narrow lanes, open fields, orchards and sporadic housing. The proposed development would project unacceptably into this tranquil setting, with open countryside surrounding the site to the north

¹ when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination

and east, and much of the western boundary (and currently part of the southern boundary, subject to the outcome of the appeal on land to the south). The eastern side of the site currently forms part of a continuous tract of undeveloped countryside extending toward Lower Halstow, with no built form beyond the site boundary. The proposal would be poorly integrated with the village and would appear as a bolt-on estate.

The character of, and tranquil setting of the Upchurch would therefore be harmed with such a large-scale urbanisation of the open countryside. The proposal would thus be contrary to the NPPF and the Local Plan policies outlined above. Any stated social and economic benefits do not *'significantly and demonstrably outweigh the harm to the landscape character and value of the area'*, contrary to Local Plan policy **DM24**.

The orchards and hedgerows make an important contribution to the amenity, historic, landscape, townscape and biodiversity value of the site and the surrounding area. The proposed removal of these trees would be contrary to Local Plan policy **DM29** which states that planning permission will be refused where there would be a loss of orchard trees in these circumstances.

It is noted that the applicant's submitted LVIA acknowledges that: *'The character of the site will undergo considerable change from a commercial, intensively managed orchard to a new housing development with open space and landscaping'* (paragraph 5.14). The magnitude of change to the site is noted as being **substantial**.

The Council's pre-application comments in relation to the illustrative masterplan are concurred with i.e. the plan is: *'unresponsive to existing patterns of development, being positioned to the rear of existing development on The Street and Forge Lane, deviating substantially from the existing street patterns and building lines and not being reflective of the historic linear character of development that has evolved within Upchurch'*. The development would be incongruous within the rural setting.

The Swale Landscape Sensitivity Assessment (2019) (SLSA)

The Swale Landscape Sensitivity Assessment (2019) identifies that the site is located within the 'Upchurch and Lower Halstow Fruit Belt' area (LW2/UK1). This area is described as comprising small-scale pasture, arable fields and some areas of commercial orchard. The landscape is generally small scale emphasised by the field pattern, hedgerows, shelterbelts and areas of orchard. The rows of fruit trees contained by shelterbelts provide a link to traditional Kent orchard landscapes. The time-depth of the landscape relates predominantly to the continuity of agriculture and fruit cultivation within the area.

The landscape is described as having a rural character emphasised by its traditional land uses including orchards, and it contains dark night skies. The landscape contains few prominent modern human/built influences. The landscape provides a wider rural setting to Upchurch and contributes in providing a break and settlement gap between Upchurch and Lower Halstow. There is an opportunity to create a better settlement edge for Upchurch by small scale development, although this should remain contained by Chaffe's Lane in the south and should

not extend beyond 1 or 2 fields east to maintain the clear landscape gap between Upchurch and Lower Halstow.

Forge Lane leading into Upchurch from the east is described as: *'largely visually contained by hedgerows but where views across the area are present, the area provides a rural setting to the Conservation Area'*. This area is stated as having moderate sensitivity to change.

Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document (SPD) 2011 (SLCBA SPD)

The SLCBA SPD outlines guidelines for the Upchurch and Lower Halstow Fruit Belt to *'conserve the distinctive landscape'*.

The proposed development would conflict with the landscape character of the area, as outlined within the SLSA and the SLCBA SPD. It would remove the traditional orchard landscape and replace it with built development, which would intrude into the current open tract of land which extends to the estuary to the north and Lower Halstow to the east. The rural setting, as identified within the SLSA would be harmed. The landscape between Upchurch and Lower Halstow should be retained.

It is noted that the reasons for refusal of the most recent application on the site (16/505738/OUT) included reference to significant adverse impacts on the quality and value of the open, rural landscape character, the loss of tranquillity and amenity value of the countryside, as well as the visual amenities of PROW users.

Visibility of the site

The site is visible in close and long-distance views, including from the elevated ground at Callum Hill to the east. Indeed, the applicant's submitted LVIA notes at paragraph 5.16 that: *'there is some intervisibility with vantage points to the north east and east, including the Saxon Shore Way long-distance footpath and Callum Hill, owing to the sloping topography within the site and the wider undulating landscape character'*. From the south-western corner of the application site, the land is elevated and the ridge in the background/Callum Hill can be seen – see figure 1.



Figure 1: View from the south-western corner of the site

In closer views, from footpath ZR12 to the south of the site, there are elevated views toward the site and the estuary beyond – see figures 2 and 3. Indeed, the committee report for application 24/504410/OUT (paras 7.68 and 7.6.11) notes that the view from identified receptor point 16 (on footpath ZR12) is:

‘of high value and this is considered to be applicable to all of that stretch, particularly given that it strongly defines the setting and context of Upchurch as a small Kent settlement that features fruit growing and its coastline as a substantial part of its history’. An extract from the LVIA submitted with this application is included at figure 2.

VIEW 16 - Public Footpath ZR12



Panoramic Image: EXISTING VIEW



Viewpoint Data
 Date: 28.11.2024
 Time: 10:37
 Bearing to CoS: 59°
 Distance to CoS: 139m
 Viewpoint Elevation: 21m
 Camera Height: 1.5m
 Grid Reference: TQ 84475 67282

Camera Settings
 Device: Canon EOS 6D
 Lens: EF50mm f/1.4
 Aperture: f/22
 Exposure Time: 1/500
 Focal Length: 50mm
 ISO Speed: 2000

Image Information
 HFOV: 88°
 Projection: Planar

Receptor Susceptibility

This view would be gained from the public footpath passing to the south-west of the proposal site. Receptors would gain the view for a several moments. Susceptibility is considered to be Moderate.

Features

The foreground of the view consists of grass fields either side of the footpath, with the proposal site and school grounds beyond. A dwelling and orchards are visible beyond the proposal site. There are long distance views to the horizon. The value of the view is considered to be High.

Sensitivity

The sensitivity of the view is assessed as Medium to High.

SENSITIVITY OF VIEW			
HIGH	MEDIUM	MEDIUM to HIGH	HIGH
MODERATE	LOW to MEDIUM	MEDIUM	MEDIUM to HIGH
LOW	LOW	LOW to MEDIUM	MEDIUM
	LOW	MODERATE	HIGH
			VALUE

Figure 2: Extract from the LVIA submitted with application 24/504410/OUT to the south of the site



Figure 3: View north towards the site from ZR12

The proposed houses would be visible above the limited hedgerow on part of the eastern boundary. The building heights at 2.5 storeys will be instructive in the landscape. It is noted that the application immediately to the south of the site (24/504410/OUT) seeks a maximum of 2 storey development. The proposed SUDS features within the eastern part of the site would also be out of character in the area.

In summary, the proposal would have a harmful effect on the landscape and rural character and appearance of the countryside, contrary to Local Plan policies and the NPPF.

Loss of hedgerow on the southern boundary

Local Plan policies **CP3**, **CP4** and **DM29** requires development to retain trees where possible (including old orchards and fruit trees, hedgerows and shelter belts) particularly those that make an important contribution either to the amenity, historic, landscape character or biodiversity value of the site or the surrounding area.

There is conflicting information within the application documents as to whether the southern hedgerow on Forge Lane is to be retained or not. The applicant's submitted Arboricultural Impact Assessment includes a Tree Survey and Constraints Plan which identifies the southern boundary hedgerow as category A which is high quality, with **retention being highly desirable**.



Figure 4: Existing hedgerow on the southern boundary (Forge Lane)

The applicant's Ecological Impact Assessment (EIA) states at paragraph 4.2 that the landscape and ecology strategy relies on 'embedded mitigation', including retention of existing boundary vegetation. Paragraph 5.10 states that the hedgerows and tree lines on site are largely to be retained and buffered. This paragraph goes on to state that: *'These habitats will be largely retained as part of the proposed development with only a small removal of the southern hedgerow for the access road.'*

The information on the plans appears to show two incursions into the hedgerow for vehicular and pedestrian access. However, the applicant's submitted Landscape Strategy Plan states that: **'New landscaping will be installed at the frontage of The Street and Forge Lane'**. Similarly, the applicant's supporting LVIA notes that *'the new homes would be set back from Forge Lane with new landscaping installed at the edge of the new development...'* (paragraph 5.5). At table 4, the removal of 33 meters of hedgerow fronting Forge Lane is also noted. At paragraph 5.12 of the EIA, the **loss of the southern hedgerow** is also noted.

The Arboricultural Impact Assessment similarly notes at paragraph 6.3 that: *'Two sections of category C2 poplar and elm hedgerow **are to be removed** to facilitate vehicular and pedestrian access between the site and Forge Lane to the south. This removal totals **33 metres**. These removals are shown on the Tree Retention and Removal Plan in Section 3'*

There is therefore conflicting information within the application documents. The EIA's findings are called into question as a result. In light of the presumed removal of the hedgerow, the landscape and visual impacts will not have been adequately assessed. If the southern hedgerow is to be removed, the proposed development would be far more visible than is stated in the submitted reports, which note that the established hedgerow allows *'only limited visibility'* (Design & Access Statement page 37). The proposal would thus be contrary to Local Plan policies **CP4** and **DM29**.

Ecological Considerations

There are matters of concern in relation to ecological considerations, as follows:

- The reptile surveys were cancelled and the impacts on this species is therefore uncertain.

- The Breeding bird survey suggests at paragraph 5 that boundary habitats, particularly towards the south of the site, be retained, protected, and enhanced where possible. The survey continues to note at paragraph 5.3 that: *'If the above recommendations are adhered to, it is considered that there will likely be no impact towards breeding bird species within the local area.'* However, as noted, the hedgerow to the southern boundary is seemingly to be removed. The impact on breeding bird species therefore uncertain.
- In light of the above, the determination in relation to the Appropriate Assessment and impacts upon the SPA and SSSI is called into question.
- The Bat Activity report notes activity on the southern hedgerow and at paragraph 4.9 recommends 'hop overs' in the 'break', but this clearly assumes the southern hedgerow is to be retained. Again, the impact on bats is therefore uncertain.
- The BNG report similarly assumes the retention of the majority of the southern boundary hedgerow. It is not clear therefore whether the BNG assessment can be relied upon. There is conflicting information within the application documents.

Prematurity

Swale has outstanding applications (including at appeal) for thousands of houses, including at Highsted Valley and Bobbing Village, which if approved, would contribute significantly to the Borough's housing supply. Approving the proposed development at Forge Lane, Upchurch, in advance of the outcome of these applications would be premature.

Local Facilities/Infrastructure

Upchurch primary school is almost at capacity (Tor & Co Planning Statement para 2.10). The applicant's Planning Statement also records that the local GP surgery is not accepting new patients (paragraph 2.12). Infrastructure capacity must be considered cumulatively with existing and proposed development.

Heritage

Heritage matters are addressed in detail by Libre Solutions within their Heritage Report and Rebuttal Statement on behalf of Upchurch Parish Council. This Statement outlines that the significance of the heritage of Upchurch arises from its main historical features, namely:

- 1) The Grade I Listed Church of St. Mary the Virgin
- 2) The Upchurch Conservation Area
- 3) The extensive archaeology that has been located within the surrounding area.

Significance also arises because of the relationship that the village has with the River Medway, its agricultural landscape, and because of its remoteness, tranquillity, and when these are considered and set against its fine-grained village core.

The Statement notes that the proposal will: *'cause **significant harm** to the heritage assets found within the village, because it will neither promote them nor improve the character or appearance of the village, which are desirable to preserve and enhance under both national and local policies.'*

It is noted that the reasons for refusal of application 16/505738/OUT identified that the proposed housing development would cause harm to the Conservation Area, the significance of which lies in its open landscaped form, tranquillity and disconnection from the built confines. Harm would also be caused by the loss of the rural setting.

The proposal would conflict with Local Plan policies and the heritage provisions of the NPPF.

Transport

Highway safety and transport matters are addressed separately by L Brown Associates Ltd. The proposal would rely on a single vehicular access from Forge Lane within a rural road context already affected by school-related traffic and nearby development pressure. The highway impacts of the proposal are deemed to be contrary to Local Plan policies **CP2** and **DM6**.

Agricultural Land

The site is in active agricultural use as a commercial orchard. The submitted agricultural land classification identifies that 2.8ha of the site is grade 2 and 2.45ha is grade 3a. It is noted however that the third reason for refusal of application SW/81/0397 on the site refers to the site being **grade 1** agricultural quality, which is confirmed within the submitted application document at that time 'Soils, Agricultural Use and Quality'. There is a contradiction between the documents which is not explained in the current application submission.

The proposal would result in the permanent loss of best and most versatile agricultural land, contrary to Local Plan policy **DM31** and the relevant provisions of the **NPPF**, which indicate that the application should be refused.

Brickearth

The site is covered by a brickearth designation, and it is noted that KCC has objected to the application on this basis. Given the scale of the proposed development, the proposal would be contrary to The Kent Minerals and Waste Local Plan (adopted 2020/2025).

Conclusions

The longstanding history of refusals on the site is a material consideration of great weight to the determination of the application.

The proposal conflicts with Local Plan policies ST1, ST3 and ST5, which direct development to higher-order settlements and seek to protect the intrinsic value, landscape setting, tranquillity and beauty of the countryside.

The proposal represents a disproportionately scaled expansion of a lower-tier settlement into open countryside. The scale and quantum of development would materially exceed that which would be appropriate for a settlement of this size and position within the settlement hierarchy. The quantum of development would be at odds with the Development Plan strategy, leading to harm to the character, function and sustainability of Upchurch.

The proposal would comprise a large-scale urbanisation of the open countryside and would have a harmful effect on the landscape and rural character and appearance of the setting of Upchurch.

There is conflicting information within the application documents as to whether the hedgerow on the southern boundary with Forge Lane would be retained. The EIA's findings are called into question as a result. There are also matters of concern in relation to ecological matters.

There are also objections raised in relation to infrastructure, prematurity, heritage and transport matters. The proposal would also result in the loss of land safeguarded for brickearth extraction, as well as the loss of best and most versatile agricultural land.

Notwithstanding the Council's lack of a five-year housing supply and the limited local services within Upchurch, it is submitted that the adverse impacts of the proposal would significantly and demonstrably outweigh any stated benefits. As such, the NPPF's presumption in favour of sustainable development should not be engaged.

The proposal conflicts with Swale Borough Local Plan policies and the Development Plan as a whole, as well as with the NPPF.

It is trusted that the above objections on behalf of Upchurch Parish Council are taken into consideration in the determination of the application.

Yours sincerely



Klaire Lander

BSc, (MA), MRTPI