

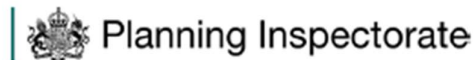
PLANNING COMMITTEE – 13th August 2026

PART 5

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information



Appeal Decision

Site visit made on 20 May 2026

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2026

Appeal Ref: 6001254

Land to the south of Fox Lane, Oversland, Boughton Under Blean ME13 9HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by John Rowley against the decision of Swale Borough Council.
 - The application Ref is 25/502229/PIP.
 - The development proposed is "a phased development of up to 7 self-build dwellings".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address on the planning application form does not match that on the decision notice or appeal form. Given that the appeal documentation and the Council's decision notice both refer to the address on the banner heading above, I am satisfied that this appropriately describes the location of the appeal site.
3. The appeal application is for permission in principle, as provided for in the Town and Country Planning (Permission in Principle) Order 2017. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle from the technical detail. Planning permission does not exist unless both the permission in principle and the technical details are approved. This appeal relates to the first of these two stages.
4. The PPG advises that the scope of permission in principle applications is limited to location, land use and amount of development. All other matters are considered as part of a subsequent Technical Details Consent (TDC) application if permission in principle is granted. I have determined the appeal accordingly.
5. The amount of residential development must be expressed as a range, indicating the minimum and maximum number of new dwellings. Although a minimum number was not expressed on the application form, the documents submitted indicate that the range would be between 1 and 7 dwellings.

Main Issues

6. The main issues are whether the appeal site would be a suitable location for housing with regard to:
 - i) the Council's strategy for the location of development and access to services and facilities;

- ii) the character of the countryside; and
- iii) the supply of the Best and Most Versatile Agricultural Land (BMV).

Reasons

Access to Services and Facilities

7. The appeal site lies outside any built up area boundary and is therefore in the countryside for the purposes of planning policy. Policies ST1 and ST3 of the Swale Borough Local Plan 2017 (Local Plan) set out a settlement strategy for the borough. This is hierarchical, focussing development on the larger built-up areas and settlements which provide residents with reasonable access to the services and facilities they require. Policy CP2 aims to improve sustainable transport options including through reducing the need to travel.
8. The appeal site comprises a field off Fox Lane, adjacent to housing in Oversland, a hamlet with no services or facilities. There are some limited services in the neighbouring village of Neames Forstal, comprising Selling train station, a post box and a village shop. At the time of my site visit, the shop's stated opening days were Friday to Sunday. Neames Forstal is a 'Tier 5' settlement. The Local Plan characterises these settlements as having limited sustainability in terms of minimal local facilities and relative isolation from higher order settlements.
9. Pedestrian access to Neames Forstal from the appeal site would be possible via a Public Right of Way (PRoW) which runs alongside the railway and passes by the southern boundary of the appeal site. It would be a reasonably short walk via Selling train station. However, the route would not be suitable for those with buggies or mobility aids due to the nature of the path and stairs to the railway bridge and station. The alternative route to the village would be along the carriageway of Fox Lane until the pavement starts outside Bridge Cottages. Neither route would be particularly attractive in the dark or during inclement weather.
10. The facilities of Neames Forstal would not be sufficient to provide for everyday needs so future residents would need to travel further afield for schools, medical facilities, supermarkets and other everyday requirements. The village of Selling contains a primary school, Public House, village hall and church. My attention has been drawn to a PRoW which links Neames Forstal with Selling. This is an unlit rural footpath and the route to Selling would be rather lengthy and inconvenient from the appeal site. The Council indicate there is no local bus service. It is therefore almost certain that future occupants of dwellings on the appeal site would primarily rely on the use of a car for more local journeys to reach everyday services and facilities.
11. Selling train station has reasonably regular services to Faversham and further afield, with pedestrian access possible along the footpath passing the appeal site. There would therefore be an alternative means of access to employment, leisure and other facilities in more major settlements.
12. Despite the proximity of the train station, the location of the appeal scheme would conflict with the Council's strategy for the location of development, and future residents would be car dependent insofar as access to local services is concerned. The proposal would conflict with Local Plan Policies ST1, ST3 and CP2, along with

Policy H1 of the Boughton and Dunkirk Neighbourhood Plan 2022-2031. Taken together and amongst other things, these policies set out the Council's spatial strategy which seeks to focus development within identified settlements according to the hierarchy, secure sustainable patterns of development and support sustainable transport.

Character of the Countryside

13. The character of the area is profoundly rural. The small villages and hamlets are surrounded by agricultural land, largely given over to fruit growing. Fields are typically small in size, separated by a network of hedgerows and woodlands.
14. The appeal site comprises a field which has a vegetated boundary to Fox Lane, and there is a small woodland to the rear. The northern side adjoins the garden of a house on the edge of Oversland. The site is open to the PRow and part of Fox Lane, from where the land rises towards the dwellings within Oversland.
15. Oversland itself has a dispersed pattern of development which is focussed on Fox Lane. The use of the appeal site for up to 7 dwellings would effectively extend Oversland towards Neames Forstal. As such I do not regard it as a form of infilling.
16. Although no indicative layout has been provided with the appeal, there is no reason to doubt that the quantum of housing proposed would be capable of being contained within the site. However, given the topography, it is likely that any residential development would be highly visible from the PRow and from where the PRow meets Fox Lane. The residential use would erode the open and tranquil rural setting, resulting in harm to the character of the countryside.
17. The proposal would therefore conflict with Local Plan Policies ST1 and ST3 insofar as the spatial strategy is delivered with the aim of, amongst other things, protecting the character of the countryside.

Agricultural Land

18. The appeal site comprises Grade 1 BMV. Local Plan Policy DM31 states that development on any agricultural land will only be permitted when there is an overriding need that cannot be met within built up area boundaries. Given the housing land supply position, the evidence indicates that the need for housing has not been met through development on allocated sites or within the built up area boundaries.
19. In the case of BMV however, the policy permits its loss only when further criteria are met. The relevant criteria in this case are that there is no alternative, non-BMV site or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development. There is little compelling evidence before me that alternative sites have been explored.
20. Secondly, the policy requires that the development would not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land. Neither main party has made the case that the appeal scheme would lead to an agricultural unit becoming unviable. Whilst the appeal site is small in area, and the scheme would not lead to a significant loss of the borough's BMV resource in itself, incremental losses can cumulatively be significant, consequently harming the availability of the highest grade BMV.

21. In conclusion on this main issue therefore, the proposal would conflict with Local Plan Policy DM31 insofar as it aims to safeguard BMV, allowing its development in limited circumstances.

Other Matters

22. The appeal site falls within the Zone of Influence of European designated sites of the Swale, Thames Estuary and Marshes and the Medway Estuary and Marshes Special Protection Areas and Ramsar sites which are scoped into the Strategic Access, Management and Monitoring Strategy. The sites are designated due to the internationally important numbers of breeding and non-breeding birds and their estuarine habitats.
23. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require the decision maker to undertake an Appropriate Assessment where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me as the competent authority in the context of this appeal. However, as I am dismissing the appeal for other reasons, it is not necessary for me to carry out an appropriate assessment or pursue this matter further because it would not lead me to a different conclusion.
24. I have been referred to an appeal decision at Basser Hill, Lower Halstow (APP/V2255/W/24/3339042) which allowed 2 self/custom build dwellings. The Inspector afforded significant weight to the provision of self-build housing in the context of the housing land supply shortfall. However, I note that in this case there was already another outline permission for residential development close by. The final planning balance is in any event, highly dependent on the individual circumstances of the proposal.
25. I have also been referred to an allowed appeal, reference APP/F0114/W/22/3310049, where the Inspector found that the loss of an awkwardly shaped, small-scale piece of Grade 2 BMV would result in limited degree of harm. Whilst the appeal site in this case is small in scale, it is not otherwise awkwardly shaped or constrained and as it is also Grade 1 land, there are not direct comparisons to be drawn in this case. It does not lead me to conclude the appeal should be allowed.
26. The appeal reference APP/W0530/W/24/3352408, the Inspector acknowledged that the benefit derived from a small number of residential plots does not carry limited weight. The appeal decision reference APP/T0355/W/22/3309281, the Inspector concluded that it was inevitable that some of the demand for self/custom build would need to be met on otherwise constrained land. It has been brought to my attention that Swale contains several designations which would potentially restrict development including the Kent Downs National Landscape, flood zones 2/3 and BMV land. Although the decisions referred to are not within Swale Borough, I acknowledge that the principles are relevant to this appeal. However, the planning balance is necessarily dependent on the individual circumstances of each case. I have necessarily determined the appeal before me on its own merits according to the development plan and other material considerations.
27. I note that there is a current planning application being considered by the Council (reference 25/501022/OUT) for 90 homes to the south/south-west of Neames Forstal. The evidence before me indicates that a decision has yet to be made on

this application. Consequently, it has very limited weight as a consideration in my determination of this appeal.

28. I acknowledge the objections of interested parties with regard to matters in addition to the main issues including biodiversity and highway safety. These matters would be considered at TDC stage and as such they do not form part of the considerations relating to permission in principle.

Other Considerations

29. The benefits arising from up to 7 additional dwellings would be moderate given the objective of the National Planning Policy Framework (the Framework) of boosting significantly the supply of housing and its support for small sites. There would also be some modest socio-economic benefits through construction and spend in the local economy.
30. The proposal would also address a significant shortfall in the Council's provision of sites for self and custom build dwellings. I afford moderate weight to this benefit.
31. The Council acknowledges that it is unable to demonstrate a 5-year supply of deliverable housing sites, with the Council's delegated report confirming a supply equivalent to 3.98 years.
32. In these circumstances paragraph 11d)ii of the Framework is applicable. Footnote 8 of the Framework establishes that the policies which are most important for determining the application are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard for 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.

Planning Balance

33. The site's countryside location would conflict with the Council's spatial strategy and leave future residents largely reliant on car travel to reach every-day more local facilities including shops, schools, primary medical care and community facilities. The weight that I attribute to the conflict with the development plan in this case is tempered by the access to train services from Selling station which would provide a means of access to services and facilities further afield. I recognise that new housing would maintain the vitality of rural communities as services in nearby villages may be supported by new residents. The Framework also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Consequently, I afford the conflict with the Council's spatial strategy moderate weight in the overall balance.
34. The Framework also requires development to add to the overall quality of the area, being sympathetic to local character including landscape setting. Furthermore, the Framework states that decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land.

35. My attention has been drawn to footnote 65 of the Framework which advocates a sequential approach to the quality of BMV to be lost only where significant development is proposed. I do not consider this to be directly relevant as the proposal would not involve significant development. Nevertheless, the Framework recognises the economic and other benefits of BMV, which would be harmfully eroded by the proposal.
36. I afford the harm to the character and appearance of the countryside and loss of BMV significant weight in the planning balance.
37. Drawing the above together, the harm I have identified to the rural character of the area, from the loss of BMV and from the conflict with the spatial strategy, draws the scheme into conflict with the Framework. This harm would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.

Conclusion

38. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, the appeal should be dismissed.

L Francis

INSPECTOR