

---

**SUBMISSION MADE ON BEHALF OF  
THE FAVERSHAM SOCIETY**

---

**INTRODUCTION**

1. This submission is prepared on behalf of the Faversham Society (“the Society”) and in respect of application 20/500015/OUT - Land At Abbeyfields Faversham Kent ME13 8HS - 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) (“the Application”).
2. It should be read in conjunction with the Society’s earlier comments made in respect of the application and, indeed, the advice provided by the LPA’s Conservation and Design Team, the Heritage Statement and the briefing notes prepared by Montagu Evans (in support of the application) dealing with the impact of the proposal on the historic environment into which the application proposes to introduce 180 dwellings and associated infrastructure.
3. It should also be read in conjunction with the “Assessment of Harm” carried out by the Society and appended to this submission.
4. This submission relates solely to the harm the application presents to the historic setting of the Scheduled Monument, Conservation Area and a number of heritage assets within the immediate locality of the site. The Faversham Society maintains the other objections made by it, and indeed, others. The purpose of this submission is to ensure that the Faversham Society’s assessment of the harm posed by the application is fully set out and understood.

5. Further, the Society, in undertaking the assessment, has identified that Abbey Fields, and the field to the South East of Abbey Farm, are in and of themselves heritage assets and should be recognised as “non-designated” heritage assets by the LPA. The LPA is invited to consider this issue with a view to confirming that it will recognise the fields as Heritage Assets as per the Glossary to the NPPF.

## **Summary**

6. The Faversham Society considers that the Conservation and Design Team have erred in their assessment of the harm that the proposal set out within the application has upon the former Royal Abbey of St. Saviours (“Faversham Abbey”) (a Scheduled Monument), the medieval buildings and the surviving landscape associated with the Abbey and its monastic farm (“Abbey Farm”) and the Conservation Area. A number of heritage assets survive locally to the site including a number of Grade I, II and II\* buildings – some of which have a direct link with Faversham Abbey and others which are important to understand the development of the Town.
7. The Faversham Society considers that, contrary to the assessment by the Conservation and Design Team, the application poses substantial harm to the significance of the Scheduled Monument, the heritage assets within the locality of the site and the Conservation area by the near final erosion of the historic environment with the removal of the site as an important area of open farmland, leading out into the open countryside into which Faversham Abbey and the Town were originally developed. The proposal represents the destruction of an important and significant area of open land that evidences the remaining link between the Scheduled Monument and the historic built centre and the open countryside. This has a direct, and adverse, impact on the historic setting of Faversham Abbey and the historic centre of the Town.
8. Should the Faversham Society’s assessment of harm not be accepted, and it remains felt that the harm posed is “less than substantial” then it is clear that the public benefits of the proposal are not sufficient to outweigh the less than substantial harm identified. The site subject to this application should not be considered to be an “easy way” to assist Swale to deliver 180 homes simply because of its location to the Town. Real care needs to be taken in assessing the proposal’s impact on the heritage assets. This is a requirement set out within Statute and the NPPF – and is discussed in what follows.

9. The application should be refused due to the harm it would cause to the historic environment. This is without prejudice to the other cogent and valid reasons for refusing permission advanced by the Faversham Society and others.

### **The Faversham Society**

10. The LPA will be familiar with the role and work of the Society within the local community. Indeed, The Society welcomes the acknowledgement in the Design and Conservation Team’s addendum to its original advice note (“the Addendum Note”) (dated 10<sup>th</sup> September 2021) that the Society “*has a good understanding of the morphology and overall heritage interest in the town*”.
11. The Society is a long established charity, aiming to preserve the heritage of Faversham and to educate the public accordingly<sup>1</sup>. It has the registered the following charitable objective on the Register of Charities:

*“To educate and inform the public in the geography, history, natural history and architecture of Faversham and the surrounding area.*

*To secure the preservation, protection, development and improvement of features of historic or public interest in Faversham and the surrounding area.*

*To preserve for the people of Faversham, of the surrounding area, and of the nation, the historical, architectural and constructional heritage that may exist in and around Faversham in buildings (including any building defined in section 336 of the town & country planning act 1990) of particular beauty or historical, architectural or constructional interest.*

*To promote high standards of planning and architecture in or affecting Faversham and the surrounding area.”*

---

<sup>1</sup> <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/4049295/charity-overview>

It is in pursuit of this objective that the Society is interested in and engaging with this application. It will already be clear to the LPA that the Society objects strongly to the application, on a number of grounds. This submission is provided in support of the Society's contention that the proposal will have an irreversible adverse impact on the historic area and setting of the Scheduled Monument, heritage assets (including locally and nationally important listed buildings), Conservation Area and indeed the historic outlook from the town.

## **The Site**

12. The Society prefers its description of the site to that set out by the Appellant, and maintains it. That description is neatly encapsulated in the Addendum Report as follows:

*Abbey Fields abuts the east boundary of the Faversham Conservation Area. The character of the landscape immediately within the Conservation Area here is one of historically and visually significant open space (itself a rare feature within the Conservation Area as a whole). Among other things this space provides part of the historic setting of the nationally important group of Grade II\* and Grade I listed house and barns, built for the monastic community of Faversham Abbey. The Conservation Area landscape here remains essentially medieval in origin - all of it, including the Cooksditch Stream, related to the workings of the former Abbey. This gives the area a unique special character.*

*Prior to the mid c19 with the arrival of the railway branch to the Creek, this agricultural land around the former Abbey site extended eastwards as further fields - Abbey Fields, once the 'Great Field' - to the horizon. Notwithstanding the narrow incursion of the railway line (now a road), this remains so today - the open agricultural land of Abbey Fields forms the east side setting of this part of the CA. Nowhere else, apart perhaps from in a small way at Standard Quay, does the historic town retain its pre-industrial, pre-C20, relationship with what was its millennial agricultural surroundings. Everywhere else in the town the link with the countryside has been severed by later developments of varying quality*

*That Abbey Fields was exploited for brickearth and that scrub has grown up along the line of the old railway makes no difference to the fact that this is literally the last major place in Faversham where the historic and aesthetic relationship between the ancient town and its countryside survives, can be seen, can be experienced and understood. The urbanisation arising from the residential development of Abbey Fields will destroy the Conservation Area's last major, historic, link between town and country. It will thus severely damage the setting of the Abbey Farm buildings and of the Conservation Area and greatly reduce the potential for 'understanding' in what is left.*

13. Section 3 of the Design and Conservation Team, in their Advice Note of 27<sup>th</sup> February 2020 (“the Advice Note”), identifies the fact that the Conservation Area is a spatial designated heritage asset, that would wrap around the proposal on two short sections in the northwest corner of the proposed site.
14. The Advice Note continues, in Section 3, to list and describe the designated heritage assets upon which the proposal will have, in the Society’s view, a substantial and harmful impact upon their historic setting.
15. In respect of the Site, it should be noted that CPRE Kent, in their comments of 21<sup>st</sup> April 2021, have observed:

*We consider that the recent proposed amendments do nothing to alter our view that allowing this outline proposal will be harmful to the heritage assets of Faversham. I take this opportunity to record our **objection** to this planning application on the following grounds.*

*The western edge of the proposals site abuts the Faversham Town Centre Conservation Area. The north east sector of the Area includes the site of the important 12<sup>th</sup> century royal Abbey of St Saviour, founded by King Stephen. It is a Scheduled Monument. Little remains today of the abbey itself apart from part of a gatehouse. However a pair of ancient barns, one Grade I listed and the other Grade II\*, survive in fine condition. These major heritage buildings, part of the abbey estate, lie about 200metres, one small field- width, from the edge of the proposal site. This edge lies on land that is raised*

above the landform, and thus there is clear intervisibility between the site and the barns. It follows that the proposal site is part of the setting of these important buildings. We consider that the applicant has failed to show a clear and convincing justification for the substantial harm that the proposed development will cause to the setting of the barns. The proposal is thus contrary to the National Planning Policy Guidance as it relates to the conservation of historic assets.

*The remains of the abbey lie under the sports field of a school. This open space allows views from the heart of the royal town and port of Faversham out to the characterful coastal landscape to the north and east. Should this application be allowed these views, cherished by local residents and visitors alike, would be severely blocked. (Emphasis Added)*

## **The Conservation and Design Team's Assessment**

### *The Advice Note*

16. Understandably, the Advice Note focuses to a large degree on the inaccuracies and omissions from the Applicant's Design and Access Statement.
17. The Society broadly supports the Officer's comments and conclusions in the Advice note, with one notable exception – namely the level of harm the proposal was assessed to pose to the settings of the designated heritage assets. The Society's position is that the correct level of harm is one of "substantial harm", as opposed to "less than substantial harm" applied by the Officer.
18. The Officer's assessment in the Advice Note is somewhat perplexing. Everything set out by the Officer in 6(d) of the Advice Note points, in the Society's view, to a finding of substantial harm. In particular:

*I consider that the proposed residential development would create an 'enclave' or 'suburb' which would neither be in keeping with the character of the town nor that of the countryside or creek area to the east, north and northeast of the site. Such 'creeping' residential development would, I believe, above all, harm the setting of the conservation area by impacting detrimentally on its character and appearance both in*

terms of views from and towards it. Furthermore, despite the buffer land proposed between the development and the SM, I believe the proposed development scheme may also implicate its wider visual setting.

*Heritage assets cannot be isolated from their setting but together with the built and natural environments they form part of a whole composition and a place in which each element forms an interconnectedness that is not easy to quantify in hard descriptions but which together form a particular assemblage of types of buildings within a landscape or landscapes typology/typologies.*

One of the charms and the beauty of Faversham is the remaining distinctiveness of character which still survives between that of the historic built centre of Faversham from the creek and countryside areas with the subject site Land at Abbeyfields forming part of the less unique and agricultural countryside character to the east of the site but merging into the watery Creek area to the north, with its weathered-looking, utilitarian buildings, boats and watery, marshy landscape which offer a unique and beautiful interlude between town and country and creating a charming character area of a certain wildness that survives despite the encroachment of pockets of development. There have been residential encroachments to the south and west whilst the subject site and the areas to the north and east as well as the immediate western fringes where the SM lies are still largely untouched.

Notwithstanding the assessment and analysis within the framework of the Heritage Statement, I therefore consider that a dense development of the type proposed would greatly compromise the fragile landscape setting to the east of the heritage assets which of course is intimately connected to visual impact and therefore the impact on the significance of the heritage assets which have been identified.

19. However, the Officer goes on to conclude that in terms of “visual impact” on the setting of the Heritage Assets, the harm is assessed as being “less than substantial” and that although the Officer “...would caution that the impact on the Conservation Area, the Scheduled Monument and the complex of former Abbey buildings, notably

*the Major and Minor barns could be considered to err towards 'substantial harm'. However this is not considered to be the case by the authors of the Heritage Statement and I would tend to defer to this view."* It is unclear to the Society as to why, from all the material in front of her, the LPA's Officers would defer to the view put forward on behalf of the applicant as opposed to forming their own view.

20. That said, having identified "less than substantial harm" the Officer goes on to recommend that the application be rejected on the basis the public benefit of the proposal is not sufficient to outweigh the loss of significance to the:

*"...identified heritage assets some of which are of precious and high and rare significance. This is a speculative development which is not framed within a philanthropic, socially beneficial or community oriented development. Indeed, I would argue that the proposal would create a privileged housing enclave that would be devoid of any community spirit by the very lack of community buildings or pleasure gardens. I would therefore like to reference an 'arts and crafts' scheme such as Brentham Garden Suburb<sup>2</sup> in Greater London which was an early C20 planned development of low cost rental homes which were built as aesthetically pleasing homes for working people to be provided with pleasant gardens, allotments, public spaces, a social club, sports facilities and grounds. The area, although now very expensive, continues to be community based and public spirited..."*

21. The Society, as a fall-back position, supports this assessment, however, it does not consider that any development (community minded or not) on the site that closes it off from the historic town or indeed the open countryside, can be said to be in the public benefit to the extent that it would outweigh the harm to the heritage assets.

#### *The Addendum Note*

22. Following the submission of further revisions to the Application, including a note prepared by the applicant's Heritage Consultants, the LPA's Conservation and Design Team produced an addendum to their Advice Note.
23. Again, broadly speaking the Society agrees with the Officer's observations and conclusion, however, it remains perplexed as to how the Officer has reached the conclusion, based on the material provided in support and opposition to the

application, that the level of harm proposed by the application falls “*within the less than substantial harm bracket in NPPF terms, this level of harm could be easily be mitigated, as suggested, without impacting materially on the public benefits of the scheme*”.

24. Further, it is unclear as to how the Officer has attributed the level of “*heritage impact harm*” to one of being in the “*region of a lower to mid-level NPPF-Framed “less than substantial harm,” impact...*”. There is no such “sliding scale” for less than substantial harm within the NPPF. It is clear from para 199 harm is either “substantial” or “less than substantial”. The Court has accepted this position<sup>2</sup>. There are no degrees or “regions” within para 199 of the NPPF as the Officer appears to suggest. What is clear, however, is that the more important a heritage asset is, the greater the weight is to be attached to the preservation of it, or its setting, irrespective of whether or not the harm caused is substantial or less than substantial (again, para 199 NPPF).

25. The Society fundamentally disagrees with the Officer’s assessment of the level of harm the application poses and, indeed, the Officer’s view on the “public benefits of the scheme.”

26. The Society has considered this note in some detail and with the assistance of Ray Harrison, AA Dipl; Dipl. Historic Building Studies IASS York, MIHBC. Appended to this submission is an analysis, undertaken by Mr. Harrison and the Society, that sets out its assessment of the level of harm posed by the application. The Society’s assessment is at odds with that the Conservation and Design Team, in that the Society concludes that the level of harm, to the setting of the Scheduled Monument and other designated heritage assets, is substantial and, as such, permission should be refused.

### **Balancing the Application’s Impact on Heritage Assets and Public Benefits**

27. It is accepted, it seems, by both the applicant and the LPA’s Conservation and Design Team that the proposal set out in the application will affect the setting of

---

<sup>2</sup> See *R(oao James Hall & Co) v City of Bradford MDC et Ors* [2019] EWHC 2899 (Admin) at para 34

listed buildings, a Scheduled Monument, and indeed, will have an impact on the conservation area.

28. It is important to set out clearly, the guidance issued in assessing the level or harm a proposal presents to a heritage asset (or, as in this case, assets).

*The Planning (Listed Buildings and Conservation Areas) Act 1990*

29. In respect of the listed buildings, the LPA is required to assess the Application in accordance with s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. S.66(1) provides:

*“In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.” (Emphasis added)*

30. In respect of the Conservation Area, s.72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 applies. This provides:

*“In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. (Emphasis added)”*

*The NPPF*

31. Chapter 16 of the NPPF (Conserving and Enhancing the Historic Environment)<sup>3</sup> also applies to the application. The following sets out the key paragraphs that the LPA will have to take into account in determining the application.

---

<sup>3</sup> References to the NPPF in this submission are to the July 2021 edition. The references contained within the Advice Note are to the 2019 edition.

32. Paragraph 199 of the NPPF makes it clear 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*”.(emphasis added)

33. Paragraph 200 of the NPPF provides:

*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. Substantial harm to or loss of:*

- a. *a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
- b. *b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional. (Emphasis added)*

34. Paragraph 201 of the NPPF goes on to set out how an application should be dealt with if a proposal will lead to substantial harm to (or total loss of significance of) a designated heritage asset. In short, permission should be refused “*...unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- a) *the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) *conservation by grant funding or some form of not for profit ,charitable or public ownership is demonstrably not possible; and*

*d) the harm or loss is outweighed by the benefit of bringing the site back into use.*

35. Paragraph 202 provides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

36. The Glossary to the NPPF provides a definition of heritage assets:

**Heritage asset:** A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).

37. It also defines the setting of a heritage asset:

**Setting of a heritage asset:** *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*

38. The Glossary to the NPPF also defines “significance” as follows:

**Significance (for heritage policy):** *The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site’s Statement of Outstanding Universal Value forms part of its significance.*

#### *Planning Practical Guidance (PPG)*

39. PPG, paras: 006-008, reference ID: 18a-006-20190723 - 18a-008-20190723 (revised 23<sup>rd</sup> July 2019) (revised 23<sup>rd</sup> July 2019) sets out:

***What is ‘significance’?***

*‘Significance’ in terms of heritage-related planning policy is defined in the Glossary of the National Planning Policy Framework as the value of a heritage asset to this and future generations because of its heritage interest. Significance derives not only from a heritage asset’s physical presence, but also from its setting.*

*The National Planning Policy Framework definition further states that in the planning context heritage interest may be archaeological, architectural, artistic or historic. This can be interpreted as follows:*

- *archaeological interest: As defined in the Glossary to the National Planning Policy Framework, there will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.*
- *architectural and artistic interest: These are interests in the design and general aesthetics of a place. They can arise from conscious design or fortuitously from the way the heritage asset has evolved. More specifically, architectural interest is an interest in the art or science of the design, construction, craftsmanship and decoration of buildings and structures of all types. Artistic interest is an interest in other human creative skill, like sculpture.*
- *historic interest: An interest in past lives and events (including pre-historic). Heritage assets can illustrate or be associated with them. Heritage assets with historic interest not only provide a material record of our nation’s history, but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values such as faith and cultural identity.*

*In legislation and designation criteria, the terms ‘special architectural or historic interest’ of a listed building and the ‘national importance’ of a scheduled monument are used to describe all or part of what, in planning terms, is referred to as the identified heritage asset’s significance.*

*Paragraph: 006 Reference ID: 18a-006-20190723*

### ***Why is ‘significance’ important in decision-making?***

*Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals (see How can the possibility of harm to a heritage asset be assessed?).*

*Paragraph: 007 Reference ID: 18a-007-20190723*

### ***How can proposals avoid or minimise harm to the significance of a heritage asset?***

Understanding the significance of a heritage asset and its setting from an early stage in the design process can help to inform the development of proposals which avoid or minimise harm. Analysis of relevant information can generate a clear understanding of the affected asset, the heritage interests represented in it, and their relative importance.

Early appraisals, a conservation plan or targeted specialist investigation can help to identify constraints and opportunities arising from the asset at an early stage. Such appraisals or investigations can identify alternative development options, for example more sensitive designs or different orientations, that will both conserve the heritage assets and deliver public benefits in a more sustainable and appropriate way.

Further advice on assessing the significance of heritage assets can be found on Historic England's website. (Emphasis added)

Paragraph: 008 Reference ID: 18a-008-20190723

40. PPG, para:013, reference ID: 18a-013-20190723 provides:

***What is the setting of a heritage asset and how can it be taken into account?***

The setting of a heritage asset is defined in the *Glossary of the National Planning Policy Framework*.

All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. *The setting of a heritage asset and the asset's curtilage may not have the same extent.*

The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations. *Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.*

The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting. *The contribution may vary over time.*

When assessing any application which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. *They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation. (Emphasis Added)*

41. PPG para 18 deals with the possibility of harm to a heritage asset:

***How can the possibility of harm to a heritage asset be assessed?***

*What matters in assessing whether a proposal might cause harm is the impact on the [significance](#) of the heritage asset. As the National Planning Policy Framework makes clear, significance derives not only from a heritage asset's physical presence, but also from its setting.*

*Proposed development affecting a heritage asset may have no impact on its significance or may enhance its significance and therefore cause no harm to the heritage asset. Where potential harm to designated heritage assets is identified, it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) in order to identify which policies in the [National Planning Policy Framework \(paragraphs 194-196\)](#) apply.*

*Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.*

*Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.*

*While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later additions to historic buildings where those additions are inappropriate and harm the buildings' significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm, depending on the nature of their impact on the asset and its setting.*

*The National Planning Policy Framework confirms 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). It also makes clear that any harm to a designated heritage asset requires clear and convincing justification and sets out certain assets in respect of which harm should be exceptional/wholly exceptional (see [National Planning Policy Framework, paragraph 194](#)).*

*Paragraph: 018 Reference ID: 18a-018-20190723*

42. Para 19 of the PPG deals with the possibility of harm to a conservation area:

***How can the possibility of harm to conservation areas be assessed?***

*Paragraph 201 of the National Planning Policy Framework is the starting point. An unlisted building that makes a positive contribution to a conservation area is individually of lesser importance than a listed building. If the building is important or integral to the character or appearance of the conservation area then its proposed demolition is more likely to amount to substantial harm to the conservation area, engaging the tests in paragraph 195 of the National Planning Policy Framework. Loss of a building within a conservation area may alternatively amount to less than substantial harm under paragraph 196. However, the justification for a building's proposed demolition will still need to be proportionate to its relative significance and its contribution to the significance of the conservation area as a whole. The same principles apply in respect of other elements which make a positive contribution to the significance of the conservation area, such as open spaces. (Emphasis added)*

*Paragraph: 019 Reference ID: 18a-019-20190723*

***GPA2 – Managing Significance in Decision-Taking in the Historic Environment***

43. Historic England has produced advice in respect of how to manage significance in decision-taking (“GPA2”).

44. The guidance applies to decisions taken in respect of both designated and non-designated assets . The advice points out that “*Non-designated heritage assets include those that have been identified in a Historic Environment Record, in a local plan, through local listing or during the process of considering the application*” (Emphasis added) (see para 5 of GPA2).

45. GPA2 is at pains to emphasise that an applicant for planning permission needs to understand: “*...the significance of any affected heritage asset, and, if relevant, the contribution of its setting to its significance*”(See para 4 of GPA2).

***GPA3 – The Setting of Heritage Assets***

46. Historic England has also produced advice in respect of assessing the setting of heritage assets (“GPA3”).

47. GPA3 provides important advice in respect of buried assets and setting. Page 4 of GPA3 discusses that “*... Buried archaeological remains may also be appreciated in*

*historic street or boundary patterns, in relation to their surrounding topography or other heritage assets or through the long-term continuity in the use of the land that surrounds them. While the form of survival of an asset may influence the degree to which its setting contributes to significance and the weight placed on it, it does not necessarily follow that the contribution is nullified if the asset is obscured or not readily visible.” (Emphasis added)*

### **The Society’s Assessment of Harm**

48. The Society is concerned that the applicant does not appear to have fully understood the significance of the heritage assets potentially affected by the development. Abbey Fields provides an important part of the setting to a number of heritage assets and, indeed, should be considered as a non-designated heritage asset in its own right because of the role it plays in understanding the significance of the historical evolution of the Abbey and Town and, indeed, as a possible rare surviving example of a “Great Field”, leading to an understanding as to how, historically, the lands around the Abbey and Town were organised and farmed.
49. Further concern is had by the Society as to the Officer’s conclusion in the Advice Note that despite noting “...that the impact on the Conservation Area, the Scheduled Monument and the complex of former Abbey buildings, notably the Major or Minor barns could be considered to err towards “substantial harm...” she deferred to the view on harm set out in the applicant’s Heritage Statement.
50. The Society, as acknowledged in the Addendum Advice, has a good understanding of the morphology and overall heritage interest of the Town. It has a good understanding as to the link between the site, local heritage assets and the surrounding landscape. It is correct, as identified in the Addendum Advice, that “...it is difficult to appreciate the visual qualities and uniqueness of the application site..” “...without some knowledge of the town and its development from an early settlement”. This knowledge is vested within the Society and the local community and appears to be lacking, or extremely limited, in the assessments carried out on behalf of the applicant. Notwithstanding that it is not akin to a “statutory consultee”, the Society is surprised that it was not approached by the applicant at an early stage (or at all) to discuss the site and the local historical context.

51. Given its acknowledged expertise, the Society feels competent and informed enough to put forward its own, differing, view of the level of harm. This view and assessment is supported by Mr. Harrison and should, indeed, be fully considered by both the Conservation and Design Team and, indeed, the LPA before any decision on permission is made.

### *The Designated Heritage Assets Affected*

52. Paragraph 1.2 of the Society's Assessment ("the Assessment") identifies the designated heritage assets it considers to be affected by the application. These include a Scheduled Monument ("Faversham Abbey"), the Faversham Town Conservation Area and Abbey Farm – which comprises a group of significant listed buildings including one Grade I and three Grade II\* buildings.

53. The Assessment identified the area considered and then summarises the historical context of the area local to the site (Sections 3 and 5). In Section 6, it sets out the significance of the heritage assets (this is not understood to be disputed).

54. Section 7 sets out the Assessment, undertaken with *R(oao of Bedford Borough Council) v SSfCLG [2013] EWHC 2847 (Admin)* in mind. *Bedford* is often referred to as setting a "high bar" in terms of being able to identify substantial harm. This does not, however, equate to it being impossible to identify substantial harm to a heritage asset arising from a planning proposal.

55. Para 18 of the PPG (set out above) was issued following the decision in *Bedford*. Again, whilst it highlights that "substantial harm" is a high test, that again does not equate to it being impossible to identify substantial harm in all cases. The PPG does not, in the Society's view, set the test as high as the decision in *Bedford*<sup>4</sup>, however, in assessing the level or harm, the Society has followed the text set by *Bedford*.

---

<sup>4</sup> It is understood by the Society that this tension between *Bedford* and the PPG has been considered recently in respect of the Holocaust Memorial in central London, which is the subject of a statutory review in which the Court may well issue further guidance in respect of the tension between the two tests.

56. In their assessment, the Society has reached the following conclusions (see Sections 7-8 of the Assessment):

*The Conservation Area, the Southeastern Field and Abbey Fields*

- a. The Conservation Area, the field to the South East of Abbey Farm (within the Conservation Area) and Abbey Fields present a sole surviving example of the medieval Town's relationship with its ancient arable setting – allowing a “unique” fragment of the Town's pre-industrial revolution setting to be experienced. The “open lands” currently found here maintain the same relationship to Faversham Abbey and its precinct as they did in medieval times.
- b. The Abbey Farm group of listed buildings retain their historic relationship with Abbey Fields, this being the remaining “sweep” of Abbey Farm's agricultural lands.
- c. The scale of the surviving landscape confirms the extensive nature of monastic agriculture and assists in enhancing the understanding of the Abbey Farm's purpose. The farm buildings can be seen in their historic setting, reflecting both their historic and present importance.
- d. It is important that the South Eastern field and Abbey Fields remain as a single open space for the purposes of:
  - i. Demonstrating the relationship of the Conservation Area's medieval and post-medieval core – extending to the mid-19<sup>th</sup> Century.
  - ii. The open space forms the last surviving example of the historic relationship between the town and the surrounding fields.
- e. Allowing the application to come forward would vitiate the significance of these combined heritage or very much reduce it. This is a paradigm example of “substantial harm”.

*Abbey Fields as a Non-Designated Heritage Asset*

- f. Abbey Fields should be recognised as a Non-Designated Heritage Asset
- g. Development within the Abbey Fields would interfere seriously with and change the existing spatial characteristics of Abbey Fields, undermining its contribution to fully understanding the historic and spatial character of the Town and Conservation Area. It would also destroy Abbey Fields' value as a heritage asset in its own right.
- h. Development would eliminate the last possibility of experiencing an ancient continuity between the historic Town and Abbey and the wider landscape. This relationship has been lost everywhere else in Faversham and so is an important setting it understanding and enhancing the conservation area.
- i. Reducing the open space through development – so that just the South Eastern Field remained, removes Abbey Fields from its role as the historic setting for Faversham Abbey, Abbey Farm and the Conservation Area.
- j. Again, this amounts to substantial harm as it has a serious and adverse impact on the significance of the heritage assets and Abbey Fields themselves.

### *Public Benefits*

57. In light of the detrimental effect of the application on the heritage assets, the Society fails to see how the public benefits outweigh the harm done (in the event that less than substantial harm is identified). See Section 9 of the Assessment.

### **Assessing the Application**

58. The LPA will have to, in due course, weigh up this application in respect of a number of material considerations. In respect of the impact on heritage assets, the Society submits that there is sufficient case here to reject the application on the substantial harm it poses to the significance of the heritage assets. The erosion of Abbey Fields as the clearest indication of the historic setting of the Scheduled Monument, the Conservation Area and Abbey Fields itself clearly undermines the

significance of the heritage assets by vitiating or much reducing the ability to understand them within the context of their historical setting.

59. Any judgment the LPA reaches will have to be based on a robust assessment. That assessment appears to be missing from the material provided by both the Applicant and the Conservation and Design Team to date. Indeed, reading the narrative of the assessment provided by the Conservation and Design Team to date does not fill the Society with confidence that a robust assessment of the impact on the historic environment has been carried out.
60. Rather, the Conservation and Design Team appear to have identified issues that should be considered as posing “substantial harm”, but have gone on to defer to the applicant on these matters. No fully independent assessment to assist the LPA appears to have been carried out.

## **Conclusion**

61. Whilst it is accepted that the level of harm assessment that the LPA is required to carry out in considering the application is a matter of planning judgment, the Society has been concerned, throughout this application, as to whether or not there has been any real understanding of the significance of the site to the historic environment and the contribution it makes to understanding the establishment of the Abbey, the development of the Abbey Precinct and surrounding town.
62. Whilst appreciating that there has been modern development around the Scheduled Monument and heritage assets, the application presents the permanent removal of a significant area of open countryside that formed part of the original setting of the Abbey, the monastic farm and original outlook of the medieval town. The loss of the historic setting of such locally (and nationally) significant heritage assets cannot be outweighed by the public benefits claimed to be gained from the application. The mitigations suggested in the Addendum Advice are, with respect, worthless in terms of protecting the historic setting.
63. There are, of course, in the Society’s view (and those of others who have commented on the application) other reasons as to why the application should be

refused. However, given the approach adopted by the applicant and the Conservation and Design Team, the Society is concerned that there has not been a sufficient understanding of the site and its importance to the local historic environment. It is hoped that this submission, and appendix, will help address that.

**SIMON BELL**  
**COUNSEL**  
**CLERKSROOM**  
15<sup>th</sup> MARCH 2022