



## Heritage Statement and Rebuttal Report

In response to 26/500852/OUT for:

Outline planning application (with all matters reserved except access) for the formation of a new vehicular access from Forge Lane and the erection of up to 101no. dwellings, including affordable housing, car parking, public open space, landscape planting, surface water drainage facilities, pumping station, highway improvements and ancillary development.

On behalf of

Upchurch Parish Council

April 2026

Site Name: **Land North of Forge Lane Upchurch Kent ME9 7AE**

Application Reference No.	26/500852/OUT
Description of Proposal:	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.
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## **Executive Summary**

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.

However, 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 proposal to add a large-scale housing development to the setting of the Conservation Area, on an area of agricultural land which extends out to the River, 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.

Development of this site has already been assessed by Historic England and the heritage advisors at Swale Borough Council, who have confirmed that development of the site would create **significant harm**.

The Upchurch Conservation Area Appraisal provides a clear steer that the distinctive character of the Conservation Area is at risk, and early photographs provide further evidence that heritage features within the village have already been lost through the latter part of the twentieth century. It is therefore important that this wealth of heritage is not further eroded by inappropriate development.

In summary, proposals for development in the village should be of an appropriate scale to provide a suitable balance with the heritage core and provide a thorough interpretation of the heritage assets in order to assist and complement them.

It is clear from the proposals subject to application 26/500852/OUT, that a thorough assessment of the heritage of the settlement has not considered the existing heritage core and the wider setting and context of the village in the landscape.

A scheme of this nature is not reversible, and the loss of heritage significance will be unsustainable for both current and future generations. This heritage statement concludes that the proposals assessed will cause **significant harm**.

## **2.0 Introduction**

This Heritage Statement and Rebuttal have been prepared on behalf of Upchurch Parish Council to respond to Croudace Homes Ltd's application for:

*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 101no. dwellings, including affordable housing, car parking, public open space, landscape planting, surface water drainage facilities, pumping station, highway improvements and ancillary development.*

The application is currently being considered by Swale Borough Council under reference no. 26/500852/OUT.

This document has been prepared to respond to matters of heritage arising from the above application, including providing a rebuttal to the Heritage Impact Assessment produced by TCMS Heritage, dated 8<sup>th</sup> September 2025. It has been prepared in order to contribute to the Parish Council's formal response to the application and to assist the Case Officer in the decision-making process.

It has been prepared by Danielle Dunn BSc (Hons) MSc AssocIHBC MRTPI, Principal Planner and Heritage Consultant at Libre Solutions, Colchester and has been informed by research and a site visit undertaken week beginning the 20<sup>th</sup> of April 2026.

## **3.0 Description of Proposed Works**

Outline planning permission is sought for a residential development for 101 dwellings with all matters except access. The layout and scale, appearance and landscaping would all be subject to later approval through reserved matters applications, if the outline application is successful.

On this basis, only the principle of development is under consideration at this time. However, it should be noted that an indicative layout has been submitted as part of the application, for illustrative purposes only, to indicate how the scheme of this nature could be achieved; the planning statement provides additional detail.

The submitted indicative Block Plan drawing no. 26/500852/OUT, and the Planning Statement submitted in support of the application show a solely residential development of circa 101 dwellings, at an approximate density of 32.5 dwellings per hectare, with all residential homes being 2.5 storeys.

A singular vehicular access will be established at the site's south-eastern boundary via a newly constructed 'T' junction with Forge Lane.

The residential development will be set within a landscaped hedgerow which will surround the site on all boundaries. However, there are some discrepancies within the

submitted information as to whether the southern hedgerow boundary on Forge Lane is to be retained or not.

Drop-off and pick-up parking provision for Holywell Primary School (for approximately 15 spaces), a children's play area, green infrastructure, surface water flood mitigation and attenuation also form part of the proposals.

#### **4.0 Site Description**

The site consists of an area of open farmland equating to 5.3ha, currently utilised as a commercial fruit orchard. It is located to the north-east of the village, adjoining Forge Lane and The Street. The site abuts the northeastern boundary of the Upchurch Conservation Area and is within the Fruit Belt Landscape Character Area.



Figure 1: Site Location identified by yellow star (Image courtesy of Google Maps)

The site has a clear sloping topography, with higher land levels adjoining the existing built form of the settlement, which then dip away sharply to the north-east and east, down towards the River Medway.

There are public rights of way (PROW) near the site (PROW ZR3A) which connects The Street with the Saxon Shore Way in the west, ZR12 (running south of Holywell Primary

School & ZR 23 (to the south of the site and crossing Forge Lane to the south-eastern corner of the application site) and ZR10 (near Forge Lane).

The site has the following planning history:

REFERENCE	DESCRIPTION	DECISION
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 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.	Refused 24 <sup>th</sup> October 2016
SW/90/0389	Outline Application for Residential Development Of 40no. Houses and Flats With Car Spaces, Site Development Works And Landscaping	Withdrawn 26 <sup>th</sup> April 1990
SW/81/0397	Outline application for residential development	Refused 10 <sup>th</sup> June 1981

Table 1: Site Planning History

An application on the opposing field, ref no.24/504410/OUT, on land adjacent to Holywell Primary School, Forge Lane, has been submitted for outline permission (access and layout sought) for overflow community parking, erection of 16no. dwellings, with associated parking and gardens, and formation of new access and egress points onto Forge Lane. This application is currently subject to an ongoing appeal, on the grounds of non-determination.

In accordance with the Planning Committee report (5th February 2026), which has been submitted to the appeal portal, Swale Borough Council has made the following officer recommendation *‘Officers respond to the appeal (on the grounds of non-determination) on the basis that no objection is raised to the proposal, subject to the imposition of conditions and a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 being acceptable.’*

In accordance with the tabled minutes of the committee meeting, ‘The Chairman moved the officer recommendation to grant planning permission as per the recommendation in the report, and this was seconded by Councillor Hayden Brawn’. Two visiting ward members spoke against the application.

A decision on the appeal is still awaited.

## 5.0 Heritage Assets

The main heritage assets within the settlement of Upchurch are:

- 4) The Grade I Listed St Mary's Church.
- 5) The Upchurch Conservation Area.
- 6) The extensive archaeology that has been located within the surrounding area.

These have been identified through the Heritage Environment Record (HER) available from Kent County Council (See Figure 2, below.)

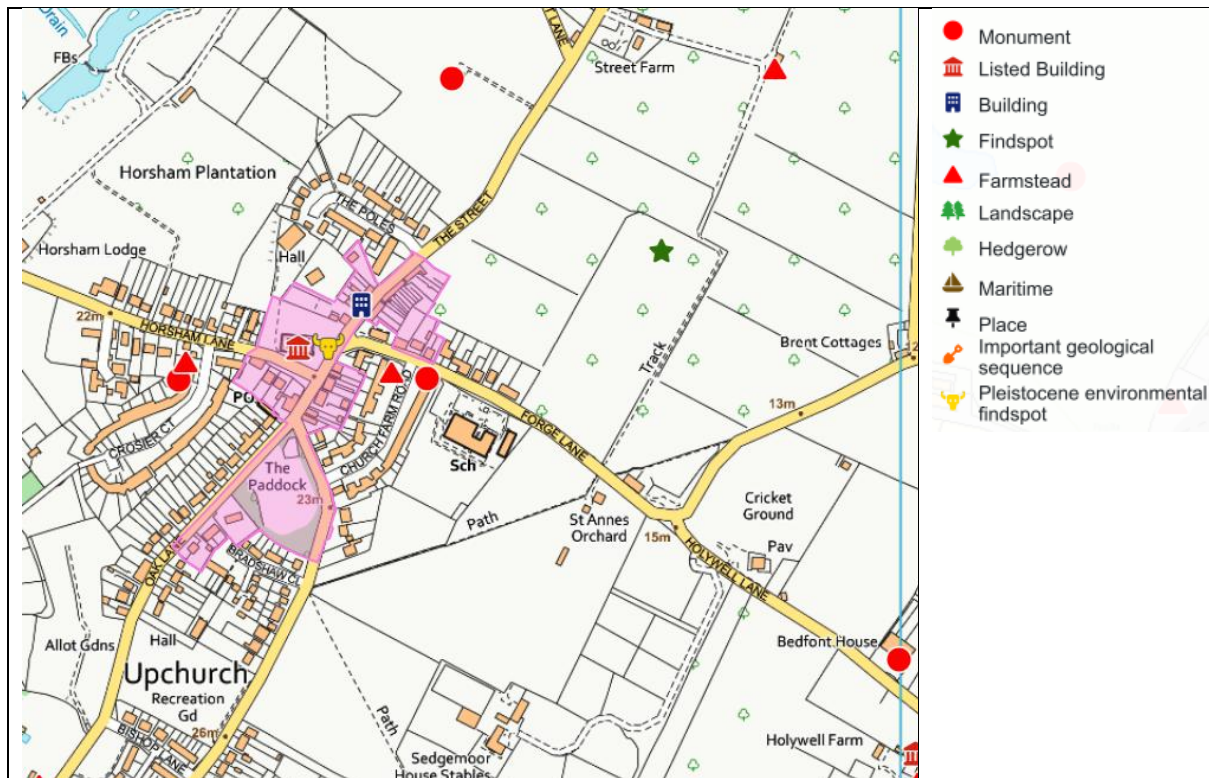


Figure 2: Heritage Environment Record (HER) mapping. (Image courtesy of Kent County Council <https://heritage.kent.gov.uk/map>)

### Church of St. Mary the Virgin

The Church of St. Mary the Virgin is a Historic England Grade I Listed church, with the List entry number 1343934. It was first listed in 1967. The official list entry is reproduced in full in Appendix 1.

The church is the dominant building and landmark within the village. It occupies the highest position, and has stood on the site since at least 1100, although the church that currently stands was primarily built in the 1300s, with some later additions. The name Upchurch is likely to have derived from a 'high up' church. It is currently looked after by the Diocese of Canterbury and is part of a benefice which covers six rural parishes.

In accordance with important associations afforded to the Church, there is some evidence available that the father of Sir Francis Drake may have served as the vicar of the

church in the 16th century. However, in accordance with the undated church history pamphlet *'It is reasonably certain that he [Edmund Drake] then became Vicar of Upchurch, but it yet to be confirmed beyond all doubt'*.

Furthermore, in the Revd Trew's study of the church in 1911, and cited in David Wood's 2007 book, the church tower may once have housed a hermit in a cell within the tower.

Key architectural features of the Church include:

- It has an unusual, shingled spire, which transitions from a four-sided base to an octagon, sometimes referred to as a "candle snuffer", and is only one of three churches in Kent with this type of spire. It is argued by Wood (2007) that this spire could have been used as a navigational aid for ships and boats on the River Medway.
- A three-bay nave arcade with octagonal piers and a 15th-century crown post roof.
- Internally, a 14th-century south chapel screen, which includes medieval stained-glass fragments, a set of medieval tiles (including a pilgrim figure), and a triple stone sedilia.



Figure 3: Early 19<sup>th</sup> Century view of the Church by H. Petrie, taken in the southeastern direction (located in the undated Church Pamphlet)



Figure 4: East Elevation of St. Mary's Church (author's own)



Figure 5: View of St. Mary's Church northern elevation with spire in the background (author's own)

**Upchurch Conservation Area:**

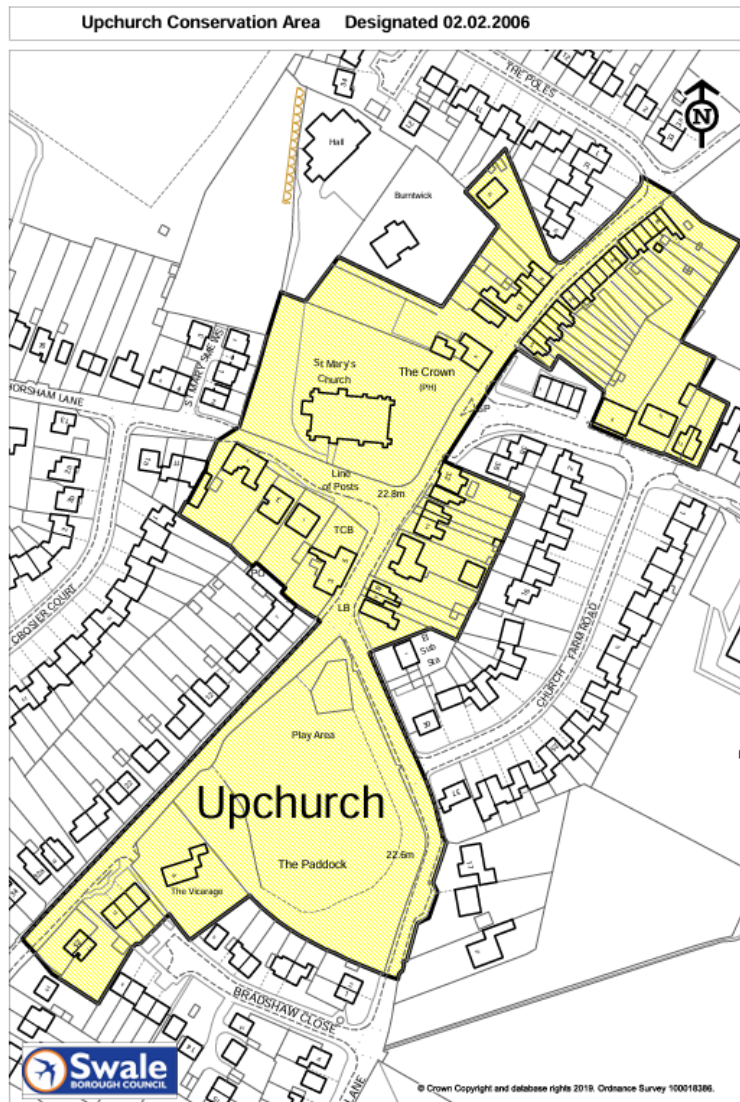


Figure 6: Upchurch Conservation Area (Courtesy of: <https://swale.gov.uk/planning-and-regeneration/heritage-and-landscape/conservation-areas/existing-conservation-areas>)

The Conservation Area of Upchurch is located centrally within the village. It was originally designated in 1992 and was reviewed in 2006. A published Conservation Area appraisal is available on the Swale Borough Council's website <https://swale.gov.uk/planning-and-regeneration/heritage-and-landscape/conservation-areas/existing-conservation-areas>.

The Conservation Area appraisal identifies the modest character of the original 'old' village, which includes the Grade I Listed Church of St. Mary the Virgin, traditional cottages, some of which are terraced, a local pub and shops. All of which are centred and densely located around a central staggered crossroad layout. The relationship of the village in relation to the River Medway is also important, as the village is set within a spur of land which projects out into the river.



Figure 7: View looking north along The Street, taken in the early 1900s. Property to the right has been demolished. David Wood, *Memories of Upchurch*, page 67.



Figure 8: Image taken looking north at the junction between Oak Lane, Horsham Lane and the Street. Image date unknown. John Clancy, *Swale Villages Through Time*, page 91.

The appraisal and website identify that the Upchurch Conservation Area is considered at Risk, and has already been eroded by 20th-century development. The following images (Figures 9 and 10) show that Forge Lane previously included the historic Parish farmstead

and the oast house. In accordance with the Kent HERS record, these were demolished in the 1960s to make way for new residential housing development.



Figure 9 (top) and Figure 10 (bottom): Image looking west along Forge Lane towards The Street. The oast house to the left of the image has been demolished. Images dates circa early 1900s. (Top) Mike Gunnill Upchurch in old picture postcards. (Bottom) John Clancy, Swale Villages Through Time, page 92.



Figure 11: Forge Lane today (author's own)

Additional views of the current village have been provided in Appendix 2.

### **Other Heritage Assets**

In accordance with the Swale Borough Council Local Heritage List, there are no locally listed heritage assets within the settlement of Upchurch. Although, the Kent Historic Environment Record (HER) identifies the potential location of a medieval house in the opposing field to the application site along The Street. This site is now the location of an agricultural building, so it could potentially be that the HERs record is incorrect. However, the corner property on the junction of Poot Lane and The Street is viewable on historic mapping and is of historic architectural merit; it is potentially worthy of local listing, subject to a thorough review. There are no other buildings of heritage merit surrounding the site that are not already located in the Conservation Area.

Although this Heritage Statement has not looked in detail at archaeology, in accordance with the HER record of Kent, the field subject to the planning application has been subject to Palaeolithic implements which have been found in various gravel pits.

## **6.0 Growth and Change of the Settlement**

Heritage mapping of the settlement, reproduced in Appendix 3, outlines the growth of the settlement since the 1860s. At that time, it was still a very small settlement, with only a small number of buildings focused around the central crossroads in front of the church.

However, by the end of the Victorian era the village had started to grow, resulting from a new brick-making works in the area. On the 1896 map, the site subject to this application was partially utilised as a sand quarry.

By the early 20<sup>th</sup> century, the village had experienced a period of rapid growth, likely resulting from the brickworks economy, with a clear linear pattern of terraced, potentially workers' cottages extending northeast outwards from the central core of the village.

There was a clear further period of housing growth in the post-war years through to the 1960s, particularly to the west and south of the Conservation Area. However, in the intermediary war years, the north and east of the Conservation Area became fruit orchards, and these uses have been maintained to this day. On this basis, these northern and eastern areas of the settlement have remained relatively undeveloped.

In particular, the northeast quarter of the village (where the application site is located) has seen very little growth since the nineteenth century and it has therefore retained its original heritage core and form layout.

## **7.0 Assessment of Significance**

In accordance with the NPPF Glossary, *“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.”*

The heritage significance of the settlement of Upchurch derives from its long-standing history, including an extensive Roman occupation in the area. At that time, one of the most important early English potteries was located in the area; such was its significance that the term ‘Upchurch’ was, and still is, given to a certain type of pottery. The village is also identified in the Domesday Book of 1086.

The heritage core of Upchurch, identified as ‘Old Upchurch’, is centred around a tight core of built form that grew around staggered crossroads. These routeways originally provided links between Chatham and the Kings Ferry across the Swale to the Isle of Sheppey, and a north-south road connecting with the London-Canterbury Road (now the A2). This crossing intersection has resulted in the tight form and layout of the Conservation Area today, and it is significant because it provides a key understanding of heritage routeways in the area and why the built and plan form of the settlement is laid out as it is. The Conservation Area Appraisal highlights that the staggered crossroads have survived substantially intact.

The most significant building within the Conservation Area is the Grade I Listed Parish Church of St Mary the Virgin, which dates back to Medieval times, although Norman remains have been found at the Chancel Arm Piers and within the boundary walls. The church has particular significance, not only because of its age, but also because it is one of only three churches in Kent which have an unusual spire known as a ‘candle snuffer’.

It is widely accepted that church spires and steeples are used as a navigation aid to call the congregation to worship. But, in accordance with David Woods’s book ‘Memories of Upchurch’, the spire may have been used as a navigation marker for boats sailing along the River Medway, or as a way of allowing the sound of the bells from the reign of Charles II to ring out unheeded. Either way, it is clear that the Church has been situated high on a hill, making it clearly visible from the surrounding land and from the river. On this basis, the setting of the village on high ground, above the lower agricultural ground and the River Medway to the north, is a clear and important element of its significance and forms the very reason why the village is located where it is.

The associated cluster of nineteenth-century buildings provides a clear setting for the church and establishes the clear, tightly grained village core.

## **8.0 Planning Policy**

The planning framework for development that could impact a heritage building or asset and its setting is primarily set out in the Town and Country Planning Act 1990. However, Heritage assets are further protected by the Planning (Listed Buildings and Conservation Areas) Act 1990, which provides specific protection for buildings and areas of special architectural or historic interest.

Any planning decisions, where Listed Buildings and their settings and Conservation Areas are a factor, must address the statutory considerations of the Planning (Listed Buildings and Conservation Areas) Act 1990 (see in particular sections 16, 66 and 72) as well as applying the relevant policies in the development plan and the National Planning Policy Framework. (PPG 001 Reference ID: 18a-001-20190723).

Section 16 of the National Planning Policy Framework (NPPF) sets out the Government's planning position on conserving and enhancing the historic environment. Paragraph 207 of the NPPF specifically sets out that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 207 goes on to explain, 'that the level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance'.

The NPPG supports the NPPF and advises on the best way to enhance and conserve the historic environment and on how this can be managed and delivered through the planning system. NPPG Guidance on the Historic Environment was published in 2019.

The NPPF and NPPG are additionally supported by Historic England's Good Practice Advice (GPA) documents and Heritage Environment Advice Notes (HEAN):

- GPA1 - Local Plan Making
- GPA2 - Managing Significance in Decision-Taking in the Historic Environment
- GPA3 - The setting of Heritage Assets
- GPA4 - Enabling Development and Heritage Assets

Historic England has also produced 18 advice notes (HEAN Documents) which provide detailed advice for matters relating to heritage assets and undertaking planning applications on them.

In particular, the following guides are relevant to this application:

HEAN 1: Conservation Area Appraisal, Designation and Management

HEAN 3: The Historic Environment and Site Allocations in Local Plans

HEAN 12: Statements of Heritage Significance: Analysing Significance in Heritage Assets

Understanding Place: Historic Area Assessments

At the local level, Swale Borough Council's Bearing Fruits Local Plan was adopted in 2017.

This includes the following policies relevant to the application:

CP8 Conserving and enhancing the historic environment. This policy sets out that the Council intends to prepare a Heritage Strategy. The purpose of this document is to ensure that development will *'sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity'*.

The Heritage Strategy for Swale was produced in 2020 and is discussed in more detail below.

DM26 Rural Lanes. This policy will not allow development that increases traffic levels and would significantly harm the character of rural lanes.

DM32 Development involving Listed Buildings. This policy assesses the impact of development on both the fabric and setting of Listed Buildings. This policy seeks to ensure the special architectural or historic interest, including its setting and any features of special architectural or historic interest. The policy states the following should be considered as part of any proposals: (a) design, including scale, materials, situation and detailing; (b) appropriateness of the proposed use of the building; and (c) desirability of removing unsightly or negative features or restoring or reinstating historic features.

DM33 Development affecting a Conservation Area. This policy expects development proposals affecting the setting of, or views into and out of, a conservation area to preserve or enhance all features that contribute positively to the area's special character or appearance.

In order to achieve this, DM33 expects proposals to; (1) respond positively to conservation area appraisals; (2) Retain the layout, form of streets, spaces, means of enclosure and buildings, and pay special attention to the use of detail and materials, surfaces, landform, vegetation and land use; (3) remove features that detract from the character of the area and reinstate those that would enhance it; and (4) retain unlisted buildings or other structures that make, or could make, a positive contribution to the character or appearance of the area.

### **Heritage Strategy:**

The Heritage Strategy for Swale 2020-2032 was adopted in March 2020. The scope of the strategy was to provide a framework for the 'designation, conservation, management and physical and economic regeneration of Swale's historic buildings and areas, including designated historic parks and gardens. This strategy sets a high-level vision and a set of five associated priorities for the borough.

*Vision: A vibrant and widely recognised heritage which is valued for its own sake and for the long-term benefits it provides to the people, economy and environment of the Borough of Swale.*

The five priorities are as follows:

"1. To conserve, and where possible enhance Swale's heritage buildings, structures and areas and moveable/portable heritage as a cultural, economic, community and environmental asset to the area, in particular by positively managing the Council's own heritage assets, and by establishing a programme for the review and appraisal of Swale's conservation areas.

2. To make use of the borough's heritage to help achieve and promote sustainable and inclusive growth and regeneration, social and economic well-being, and civic pride, in particular by actions to tackle and specifically reduce Swale's heritage at risk across the full range of nationally and locally designated heritage assets.
3. To recognise and promote the role of Swale's heritage in creating or enhancing local distinctiveness and a positive image for the area as a place to live, learn, work and visit, in particular by the Council continuing to work in an enabling role to develop and support projects and initiatives by local groups, societies and businesses that would bring about significant public benefit.
4. To ensure Swale's heritage forms an integral part of local strategies and initiatives to promote tourism and the visitor economy, including through the conservation and subsequent positive management of the Borough's internationally significant maritime heritage (at Sheerness Dockyard) and aviation heritage (at Eastchurch) on the Isle of Sheppey.
5. Raising the historic environment (and the important social history associated with it) up the agenda by promoting awareness and understanding of Swale's heritage among local residents, businesses and visitors to the area, in particular to help realise the cultural, educational and associated health benefits it can offer".

## **9.0 Assessment of Proposals**

Upchurch has a wealth of historic character and is characterised by linear groupings of historic buildings which follow the road pattern and indicate the size of the original settlement. The area is part of a characterful agricultural landscape, which has a rural tranquillity contributing to its heritage and setting. The application site is located to the north of the village, which hasn't been subject to extensive patterns of growth, and which has largely retained its original street form and setting towards the River Medway.

The village is surrounded by a mixed agricultural landscape, including orchards to the north, creating an attractive and characteristic Kentish landscape. The area has been subject to significant archaeological finds in its past.

The proposed development would be of a size, scale and design that has not adequately considered the host village and, importantly, the relationship between the settlement, the surrounding agricultural land, and the River Medway.

When considering Local Planning Policies, the scheme will have a clear impact on the local road network and the rural lanes that lead into the historic core of the settlement. The character of these lanes would be subject to significant impact, and therefore, the development would not comply with policy DM26.

The scheme has not taken into consideration the important Grade I Listed Church of St Mary the Virgin, and therefore, it would not comply with local policy DM32, which assesses developments that could involve Listed Buildings. Such a large scheme on this important viewpoint overlooking the River Medway would impact the setting of the church, and erode its significance when considering its relationship with the river and the intermediate agricultural land. The settlement is likely named Upchurch, because it had a visible and ‘high-up’ church.

The proposed development directly adjoining the Conservation Area is contrary to the aspirations of policy DM33, which assesses how proposals relate to the setting and special character of the Conservation Area. Although only at outline stage, the indicative site layout and drawings have not considered or understood the special character and appearance of the Conservation Area, but have just provided a green buffer, creating a development which turns its back on the historic core of the settlement. The proposals have not responded positively to the special character and appearance of the Conservation Area.

Furthermore, the size and scale of the development swamps the size of the Conservation Area, which would erode its significance in the wider landscape. This should also be understood in the context of a planning application on the opposing side of Forge Lane, 24/504410/OUT, for 16 dwellings, which has some support from the Local Planning Authority. Although a decision is yet to be made on this scheme, the cumulative impacts arising from the delivery of both developments should not be ignored.

When considering the Heritage Strategy for Swale, it is clear that the proposals have failed to adequately address the importance of the heritage assets within the settlement and the importance to the community that they serve. These assets can provide long-term benefits to the community, economy and environment in accordance with the vision of the Heritage Strategy. The settlement has already lost some of its historic core and it is important that this isn’t further eroded for future generations.

In summary, it is considered that the proposals have not gone far enough to consider the local distinctiveness of the settlement. In accordance with Historic England HEAN Note 12 on assessment of significance, Paragraph 7 states: ‘This sequence, where design of the proposal follows investigation of significance, is better than the contrary, where proposals are developed and designed before significance has been assessed’.

## **10.0 Assessment of Harm**

As set out in preceding paragraphs, the proposals subject to this Heritage Statement are only in outline form, so the finer details regarding the street layout, house design and use of materials would be considered through later Reserved Matters applications, subject to this outline consent being approved. However, the principle of 101 houses and the indicative layout of the scheme, would all form part of the assessment of harm below.

The NPPF categorises harm to heritage assets as substantial harm, less than substantial harm, or no harm, focusing on the asset's significance (including its setting). The NPPF stresses that impacts on heritage assets should be avoided.

In accordance with NPPF paragraph 213, *'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'*. In this context, when reviewing the PPG on Conserving and Enhancing the Historic Environment, the key is a judgment call on the scale and nature of impact on significance, differentiating between these levels to apply the correct NPPF tests.

In accordance with Planning Policy Guidance (PPG), whether a proposal causes substantial harm is a matter of judgement for the decision-maker, having regard to the circumstances of the case and policy in the NPPF. *City & Country Bramshill Ltd v SSHCLG* [2021] EWCA Civ 320 confirms that the level of harm and the approach adopted to assessing that level are matters of fact and planning judgment.

In accordance with paragraph 018, Reference ID: 18a-018-20190723 of the PPG, *'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)'* (my emphasis).

Therefore, it is important that the correct decisions are made to ensure the heritage assets and their settings within the settlement retain their significance. It is the degree of harm to the asset's significance rather than the scale of the development that should be assessed.

Case law sets out that there are three categories of harm: Substantial, Less than Substantial and No Harm. *R (James Hall & Co Ltd) v Bradford MDC* [2019] EWHC 2899 (Admin) confirms that there are no other categories of harm, and there is no such thing as de minimis harm. Minimal harm counts as less than substantial.

Although there is no definitive description of harm, the following general guiding principles for levels of harm are widely acknowledged.

**Substantial Harm / Total Loss:** A high-level, serious impact that ruins or vitiates the significance of a designated heritage asset. It implies that the asset's value is either lost or very much reduced.

**Less than Substantial Harm:** A broad, common category covering a range of impacts that do not completely destroy the significance.

High Level: Serious, but not quite ruining the asset's significance.

Medium Level: Noticeable or material harm.

Low Level (Negligible): Limited harm that does not seriously affect significance but is still considered harmful.

**No Harm:** The proposal causes no harm, or the change is so minor it does not affect the significance of the asset.

The scheme subject to this assessment is not a minor development, and the outcomes of it will result in permanent changes that cannot be reversed. When considering the significance of the herita

ge assets within the settlement of Upchurch, and how this proposal will impact on them, it is clear that there will be **substantial harm**.

The significance of the settlement with the River Medway, would be considerably impacted by the provision of such a large-scale development to the north, which is an area that provides the setting to the Conservation Area and the church within it, and which, in addition to its remote location, has a clear and historic relationship with the navigation of the River and the historic agricultural links of the village. The relationship between the settlement and the river is therefore intrinsically linked, and the indicative layout has not made any attempt to ensure that the views and settings to the River are maintained or incorporated into the design.

Development of such a scale would be out of keeping, and does not address or understand the heritage of the core of the settlement, which is fine-grained and concentric, set within an agricultural landscape. The proposed development has made no attempt to understand this and protect what is clearly the most important feature, the views of the church spire into and out of the site. Providing a landscaped buffer on the outer edges of the settlement, rather than designing a scheme which understands the road layout, further ensures the design has no relationship with the existing village fabric.

The long history of the site as part of the Kent Fruit growing belt has been completely ignored in all of the designs put forward.

The Conservation Area assessment provides a clear indication that the Conservation Area is at risk of being eroded by modern housing development, which is unconnected to the local context. Paragraph 28 of the Conservation Area appraisal states:

*“28. The surviving historic environment in Upchurch is, however, a relatively fragile thing, and its setting amidst C20 housing development is likely to bring further pressures to bear*

*on its traditional character. The preservation, and reinstatement where appropriate, of features contributing to the distinctive character of the place should be a priority”.*

The Conservation Area appraisal highlights that retaining the distinctive character of the settlement should be a priority. The development proposals subject to this scheme are at great risk of eroding this distinctive character further.

### **11.0 Rebuttal of Heritage Statement**

A Heritage Impact Assessment has been provided in support of the application by TCMS Heritage, dated 8<sup>th</sup> September 2025.

Whilst no attempt is made to contradict the methodology of this assessment, the TCMS report identifies that the:

- Proposals will result in **no harm** to the significance of the Church of St Mary.
- The development will result in a **low level of less than substantial harm** to the significance of the conservation area.

This represents a lesser harm than has been observed by the assessment herewith. The Council will therefore need to make its own balanced assessment on the levels of harm identified.

Historic England provided a written response to the 2016 planning application (ref no. 16/505738/OUT). This set out the following:

*“Historic England advises that ‘the proposed development will sever the well established contextual and functional relationships between the evocative historic buildings on Forge Lane and The Street, and the characterful agricultural landscape and the rural setting that contributes to an understanding of Upchurch’s historic associations. The relatively unchanged small-scale and compact character of this quarter of Upchurch positively contributes to the significance of the conservation area and should be preserved. As such, the proposed development will be harmful to the significance of Upchurch conservation area and very little justification has been given for this development (as required by para 132 of the NPPF) and the site is not identified in the Borough Council’s Local Plan as a housing development site. Given that the application affects the Upchurch conservation area, the LPA has a duty to pay particular attention to the desirability of preserving or enhancing the character and appearance of the conservation area when making a decision. Para 139 of the NPPF advises that LPAs should look for opportunities for new development within conservation areas to enhance or better reveal their significance and any harm should be weighed against public benefits of the proposals (para 133 and 134). In this case Historic England questions whether there are sufficient public benefits in this case to outweigh the harm to heritage significance of Upchurch conservation area. Overall, an objection is raised to the development on*

*grounds that the harm caused will not preserve or enhance the character or appearance of the conservation area and does unjustified harm to its significance'. They recommend that future development should be suited to the south of the village and that parcel of land at Forge Lane should remain in agricultural use”.*

The TCMS Heritage Statement sets out at paragraphs 3.6 and 3.7 that Historic England was consulted during the process of establishing the new proposals for the site.

It is clear from this correspondence that Historic England has upheld their findings on the previous application, and conclude that *“The degree of harm would be high, as the site currently provides a valued rural and undeveloped setting to the conservation area, which helps reinforce the sense of openness, tranquillity and disconnection from the built confines of Upchurch”.*

The findings of Historic England are more akin to the findings of the Heritage Statement herewith.

The TCMS Heritage Statement also outlines that pre-application advice was undertaken with the Local Planning Authority. As part of their pre-application response, the Council highlighted that *“development would sever the legible contextual and functional relationship between the historic village to its rural setting, eroding the understanding of Upchurch’s historical rural associations”.*

It is considered that the TCMS report does not provide a reasoned justification for discounting these comments from important heritage advisors. As there is no response within the document that provides a counterargument to their concerns.

This independent heritage statement has been undertaken on behalf of the Parish Council and is considered to concur with the findings of Historic England and Swale Conservation Officer Comments.

### **Planning Balance**

Paragraph 215 of the NPPF requires the harm to a heritage asset to be weighed against the public benefits of the proposal - the proposal as a whole, not just one element of it.

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 considered exceptional/wholly exceptional (see [National Planning Policy Framework, paragraph 194](#)); PPG Reference ID: 18a-018-20190723.

When considering the findings of this heritage statement and the comments received on previous planning applications for the site, and on the emerging plans by Historic England and the Swale Borough Council heritage advisors, it is considered that there are no public benefits arising from the scheme that would outweigh the significant irreversible harm that the proposals would cause in accordance with Section 16 of the NPPF.

## **12.0 Conclusion**

Chapter 16 of the NPPF (2024) and Local Policy DM33 require development proposals to preserve or enhance the character and appearance of the Conservation Area. Paragraph 206 of the NPPF confirms that any harm to the significance of a designated heritage asset must be clearly and convincingly justified, while paragraph 215 requires that less than substantial harm should be weighed against public benefits.

Local Policy DN32 sets out that development proposals will be supported where they sustain, preserve and wherever possible, enhance the significance, appearance, character, function and setting of any heritage asset (both designated and non-designated), and the historic environment.

The proposed development at Forge Lane (App ref: 26/500852/OUT) is not modest in scale and has not considered the heritage assets adjoining it, and to which the existing site provides a setting.

Although the proposal does not involve the loss of historic fabric, it does obscure views of heritage assets, namely the church, and thus impacts its relationship with the surrounding agricultural land and the River Medway. It would remove the agricultural setting and the important relationship that the site has with the River Medway.

Development of this nature is irreversible; therefore, it is important that the long-term impact on future heritage sustainability is carefully considered. There is a significant impact on the significance of the Conservation Area arising from this scheme.

The proposal is considered to result in substantial harm which would not be outweighed by the public benefits of the development. These are similar findings to those of Historic England and the Council's heritage advisors.

The proposal, therefore, does not comply with national and local heritage policy requirements.

## **13.0 Bibliography**

Clancy, John. *Swale Villages Through Time*. Amberley Books, Gloucestershire, 2011.

Gunnill, Mike. *Upchurch in old picture postcards*. Meresborough Books, Rainham, 2005.

Unknown, *A brief history and description of the church of St. Mary the Virgin, Upchurch, Kent*. Pamphlet available from the Kent Libraries Reference Collection 726.5094223  
UPC

Wood, David. *Memories of Upchurch: A History of the Village*. MPG Books Ltd, Cornwall. 2007.

**Appendix 1:**

**Historic England List Entry for Church of St. Mary the Virgin, Horsham Lane.**

**Official list entry**

Heritage Category: **Listed Building**

Grade: **I**

List Entry Number: **1343934**

Date first listed: **24-Jan-1967**

List Entry Name: **Church of St. Mary the Virgin**

Statutory Address 1: **Church of St. Mary the Virgin, Horsham Lane**

**The building or site itself may lie within the boundary of more than one authority.**

County: **Kent**

District: **Swale (District Authority)**

Parish: **Upchurch**

National Grid Reference: **TQ 84368 67499**

**Details**

TQ 86 NW

1/4

UPCHURCH

HORSHAM LANE (north side)

Church of St. Mary the Virgin

Parish church. Chancel c.1300, nave and east chapels C14, restored 1875 by Blomfield. Flint and rubble, with plain tiled roofs and shingled spire. Chancel with north and south chapel, nave with aisles, west tower north and south porches.

Two stage battered tower with roll moulded and plain chamfered west doorway, and restored C15 Perpendicular west windows. Shingle spire of an eight-sided cone placed over a pyramid, built 1915 after an explosion. South aisle with angle buttresses and offset porch with quatrefoiled oculi containing C14 glass. South chapel of rubble, east end of chancel flint and rubble, north chapel flint, with charnel cellar below, with restored geometric southeast window, restored curvilinear east window with sexfoil and genuine C14 curvilinear north-east three light windows with mouchettes. North aisle

and north-east chapel with angle buttresses and three offset buttresses, with two large C14 windows, two light with quatrefoil over, and four smaller ones of similar pattern, with lean-to north porch.

Interior: unmoulded tower arch, with rounded corners projecting into nave containing stairs. Three bay nave arcade, octagonal piers with double chamfered arches, and three bay crown post roofs with straight tie beams and solid knees on carved corbels. Nave and aisles with continuous wall seats. South aisle with C15 three bay cusped blind arcading and string course over. North-east corner of nave has exposed one shaft head c. 1300 and section of keel roll blind hollow chamfered nave arcade and chancel arch pre-dating C14 expansion of nave. Double hollow chamfered chancel arch on octagonal responds. Chancel of c.1300 with later C14 two bay arcades to chapels, roll moulded with hollow and plain chamfer on square piers with attached marble shafts at corners, and carved leaf capitals, with fragments of earlier blind arcading and string course with same mouldings as fragment in nave. Trussed rafter roof.

Fittings: ascending triple stone sedilia in chancel, with wooden backboard. Piscinas in chancel, south chapel, and north aisle and two paired aumbreys in chancel east wall and aumbrey with door in south chapel. C14 screen to south chapel, with solid plastered base, with square-headed lights, two with mouchettes. C14 cusped and ogee-headed recess in south chapel, with attached shafts. Medieval floor tiles survive at nave east end (ten rows) and in north chapel. C12 architectural fragment in north aisle, zigzag and diaper mouldings.

Monuments: C14 wall tomb, on north chapel, a marble slab with crocketed and cusped ogee arch with two castellated pinnacles. Two brasses in north aisle, half-length man and woman (15 in), c.1350, originally with inscription in French.

Glass: in north aisle, roundel c.1300 of angel, with other C14 and C15 figures, and roundels in south porch. Fragmentary wall painting in south aisle.

Listing NGR: TQ8434667457

**Legacy** The contents of this record have been generated from a legacy data system.

Legacy System number: **176207**

Legacy System: **LBS**

**Sources Books and journals** Newman, J, The Buildings of England: North East and East Kent, (1983), 482-483

**Appendix 2: views of the site and surrounding area.**



View northwards along The Street



View southwards along The Street



View looking south towards the Conservation Area.



View north across the site.



View southwards along The Street towards the CA.



View eastwards along Forge Lane



View eastwards along Forge Lane



View westwards along Forge Lane

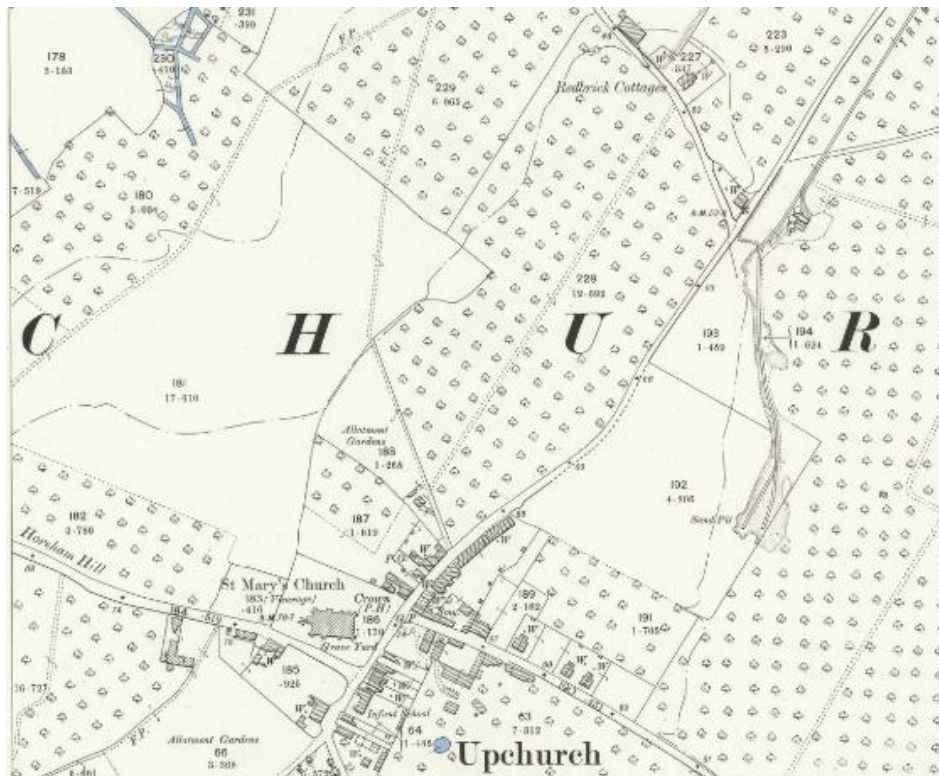


View from Forge Lane to the Church

**Appendix 3 Historic Mapping**

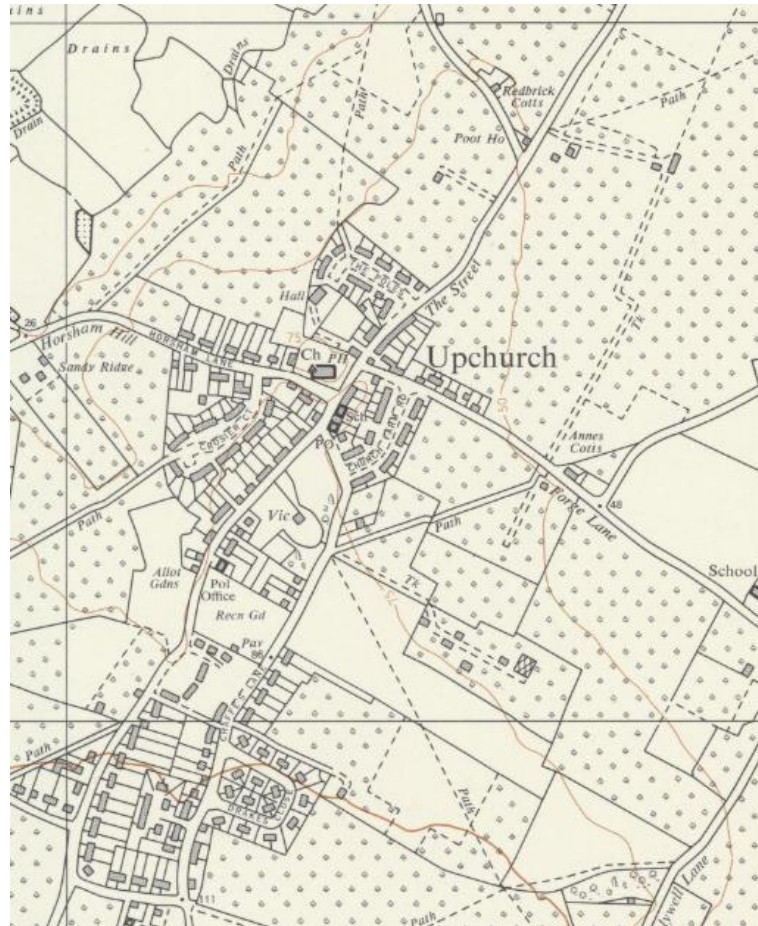


Kent Sheet XX, Upchurch Surveyed 1864 to 1865, Published 1869 (Map of courtesy of the National Library of Scotland)



Kent Sheet XX.NE Upchurch Revised 1896, Published 1898 Site (Map of courtesy of National Library of Scotland)





Ordnance Survey TQ86NW Upchurch Surveyed/Revised 1955 to 1969, Published 1969 (Map of courtesy of National Library of Scotland)