

07 January 2021 at 7.00 pm

This meeting will be held virtually via Zoom,
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Development Control Committee

Membership:

Chairman, Cllr. Williamson; Vice-Chairman, Cllr. Reay
Cllrs. Ball, Barnett, Brown, Cheeseman, Perry Cole, Coleman, P. Darrington,
Hogarth, Hudson, Hunter, Layland, McGarvey, Osborne-Jackson, Pett, Purves,
Raikes and Roy

Agenda

	Pages	Contact
Apologies for Absence		
1. Minutes To approve the minutes of the meeting of the Committee held on 17 December 2020, as a correct record.	To follow	
2. Declarations of Interest or Predetermination Including any interests not already registered.		
3. Declarations of Lobbying		
4. Planning Applications - Chief Planning Officer's Report		
4.1 20/02463/FUL - Leigh Flood Storage Area, River Medway, Sevenoaks District Council Kent Proposed flood mitigation improvements to facilitate the Leigh Flood Storage Area (FSA) expansion scheme. Improvements to Leigh and Cattle Arch embankments to include: partial raising of embankments; installation of 300mm high wave return wall; creation of pumping station platform area; erection of new fencing and gates and other associated works that include culvert, eel pass, temporary access and compound areas.	(Pages 1 - 32)	Sean Mitchell Tel: 01732 227000

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|---|-------------------------|--|
| <p>4.2 20/02389/LDCEX - Land North of Hunters Retreat, Shoreham Lane, Halstead Kent TN14 7BY</p> <p>Certificate of lawfulness for the use of the land for the storage of roll-on/ roll-off bins and skips and porta cabin for more than 10 years; and the erection of a building in excess of 4 years.</p> | <p>(Pages 33 - 52)</p> | <p>Charlotte van den Wydeven
Tel: 01732 227000</p> |
| <p>4.3 20/02646/MMA - 95 Dartford Road, Sevenoaks, Kent TN13 3TF</p> <p>Minor material amendment to 19/00116/FUL</p> | <p>(Pages 53 - 66)</p> | <p>Mark Mirams
Tel: 01732 227000</p> |
| <p>4.4 19/02474/FUL - Claydene Farm, Hartfield Road, Cowden Kent TN8 7HF</p> <p>Conversion of redundant agricultural Buildings to form 9 new residential units. Demolition of outbuildings. Landscaping works with new access and access alterations.</p> | <p>(Pages 67 - 110)</p> | <p>Emma Gore
Tel: 01732 227000</p> |

EXEMPT INFORMATION

At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.

As it is necessary to observe social distancing to limit the spread of Covid-19, currently the Council is unable to arrange site visits in the established manner and therefore requests for site visits will not be taken.

Please note speakers should register by 5pm on the day of the meeting. Any slides speakers may wish to have displayed at the meeting should be emailed to dc.committee@sevenoaks.gov.uk, by 5pm the day before the meeting.

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting.

Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227000 or democratic.services@sevenoaks.gov.uk.

4.1 20/02463/FUL

Revised expiry date 8 January 2021

Proposal: Proposed flood mitigation improvements to facilitate the Leigh Flood Storage Area (FSA) expansion scheme. Improvements to Leigh and Cattle Arch embankments to include: partial raising of embankments; installation of 300mm high wave return wall; creation of pumping station platform area; erection of new fencing and gates and other associated works that include culvert, eel pass, temporary access and compound areas.

Location: Leigh Flood Storage Area, River Medway, Sevenoaks District Council Kent

Ward(s): Leigh & Chiddingstone Causeway

Item for decision

The Chief Planning Officer considers that this planning application to be significant and therefore require it to be determined by the Development Control Committee.

RECOMMENDATION: That planning permission be GRANTED subject to the following conditions:

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

In pursuance of section 91 of the Town and Country Planning Act 1990.

2) No works (including site clearance or preparation) shall commence on the development hereby permitted until final design and construction drawings and method statements in relation to works in the vicinity of the A21 Medway Bridge have been submitted to and approved in writing by the Local Planning Authority (who shall consult with Highways England). The construction of the development shall be carried out in accordance with the approved drawings and statements unless otherwise agreed in writing by the Local Planning Authority (who shall consult with Highways England). At the end of the construction period, a full set of as built drawings and associated documentation shall be provided to Highways England.

To ensure that the A21 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

3) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval

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from the local planning authority. The remediation strategy shall be implemented as approved.

To reduce risk to controlled waters. There is always the potential for unexpected contamination to be identified during development groundworks and any contamination be identified that could present an unacceptable risk to Controlled Waters, in compliance with the National Planning Policy Framework.

4) Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by remobilised contaminants present in shallow soils/made ground in line with paragraph 170 of the National Planning Policy Framework.

5) Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted for the written approval of the local planning authority. The CEMP shall include, though not necessarily be limited to the following details: a) A Construction Traffic Management Plan incorporating details of heavy vehicles movement patterns, including earliest and latest arrival and departure times, routes to be used to and from the site and signs, information to instruct drivers and maintained at the applicant's expense throughout the construction period; b) The parking arrangements for vehicles of site operatives and visitors together with measures to reduce the daily number of trips to the site; c) The loading and unloading arrangements for heavy plant and materials; d) Processes of controlling/suppressing dust emanating from the site; e) The location and type of temporary fencing/hoarding; f) The details of wheel cleaning facilities within the site to prevent mud being deposited on the public highway; g) The tool-box talk for the site operatives regarding protected species and awareness.

To mitigate the impact arising from development upon existing habitats of protected species on or surrounding the site and safeguard the amenities of adjacent neighbouring properties and existing road network in accordance with Policy SP11 of the Sevenoaks District Core Strategy, Policies GI1, EN1, T1 of the Sevenoaks Allocations and Development Management Plan and guidance in National Planning Policy Framework 2019.

6) Prior to commencement of works (including site clearance), a biodiversity enhancement plan will be submitted to, and approved by, the local planning authority. The plan will include a map of proposed enhancements, management prescriptions and biodiversity net-gain metric calculations. The approved details will be implemented and thereafter retained.

To ensure that the proposed development will not have a harmful impact on protected species and habitats, and make further wider biodiversity

enhancements, in accordance with Policy SP11 of the Core Strategy and guidance in National Planning Policy Framework.

7) From the commencement of works (including site clearance), all mitigation measures for protected species and compensatory measures for habitats will be implemented in accordance with the details in section chapter 7 of the Environmental Statement (Environment Agency August 2020), unless varied by a European Protected Species licence subsequently issued by Natural England.

To ensure that the proposed development will not have a harmful impact on protected species and habitats, and wider biodiversity, in accordance with Policy SP11 of the Core Strategy and guidance in National Planning Policy Framework.

8) The increased capacity of the flood storage area up to 28.6mAOD shall not take place until the flood mitigation measures /Measures in the Interests Of Safety measures as hereby permitted are fully completed and operational unless otherwise agreed in writing by the local planning authority.

In the interests of reducing flood risk prior to completion of the development in accordance with National Planning Policy Framework.

9) Notwithstanding the approved drawings, no steps will encroach onto the definitive line of Public Right of Way SR435.

For the avoidance of any doubt

10) The development shall be carried out in strict accordance with the Environmental Action Plan as found in Appendix A Environmental Statement dated August 2020. Any changes to the Environmental Action Plan as hereby permitted shall be submitted to and agreed in writing by the Local Planning Authority. The development shall accord with the approved and implemented in full.

To mitigate the impact arising from development upon existing habitats of protected species on or surrounding the site and safeguard the amenities of adjacent neighbouring properties and existing road/footpath network in accordance with Policy SP11 of the Sevenoaks District Core Strategy, Policies GI1, EN1, T1 of the Sevenoaks Allocations and Development Management Plan and guidance in National Planning Policy Framework 2019.

11) No demolition, site clearance or building operations shall commence on site until the protective fencing and other protection measures in the Arboricultural Impact Assessment dated 05/08/2020 have been installed. At all times until the completion of the development, such fencing and protection measures shall be retained as approved. Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials and debris.

To protect the trees on site which are to be retained in the interests of the visual amenities of the locality in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

12) The development hereby permitted shall be carried out in accordance with the following approved plans: ENVIMSE100377-JBA-LZ-OO-DR-PL-1000, ENVIMSE100377-JBA-LZ-OO-DR-PL-1002, ENVIMSE100377-JBA-LZ-OO-DR-PL-1010,

ENVIMSE100377-JBA-OO-ZZ-DR-PL-l000, ENVIMSE100377-JBA-OO-ZZ-DR-PL-l020, ENVIMSE100377-JBA-OO-CAOO-DR-PL-l100, ENVIMSE100377-JBA-OO-CAOO-DR-PL-1204, ENVIMSE100377-JBA-OO-CAOO-DR-PL-1240, ENVIMSE100377-JBA-OO-CAOO-DR-PL-1241 ENVIMSE100377-JBA-OO-ZZ-DR-PL-1000, ENVIMSE100377-JBA-OO-MEOO-DR-PL-1303, ENVIMSE100377-JBA-OO-ME01-DR-PL-l100, ENVIMSE100377-JBA-OO-ME02-DR-PL-l100, ENVIMSE100377-JBA-OO-ME03-DR-PL-1100, ENVIMSE100377-JBA-OO-ME04-DR-PL-1100ENVIMSE100377-JBA-OO-ME04-DR-PL-1101, ENVIMSE100377-JBA-OO-ME04-DR-PL-1220, ENVIMSE100377-JBA-OO-ME04-DR-PL-1225, ENVIMSE100377-JBA-OO-ME04-DR-PL-1200, ENVIMSE100377-JBA-OO-NR02-DR-PL-1100, ENVIMSE100377-JBA-OO-NR02-DR-PL-1200ENVIMSE100377-JBA-OO-EPOO-DR-EN-001, ENVIMSE100377-JBA-OO-EPOO-DR-EN-002, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1100 ENVIMSE100377-JBA-DE-PFOO-DR-PL-1101, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1102, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1103 ENVIMSE100377-JBA-DE-PFOO-DR-PL-1104, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1105, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1200-A5-C01, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1201 to 1211, ENVIMSE100377-JBA-DE-PFOO-DR-PL-1301 & 1302 and Planning Design Access Statement, Arboricultural Impact_Assessment and Environmental Statement dated August 2020.

For the avoidance of doubt and in the interests of proper planning.

Informatives

1) The drawings and documentation required prior to and post construction should be produced in accordance with and demonstrate the compliance of the development with the Design Manual for Roads and Bridges, insofar as they apply to the A21 Medway Bridge and its vicinity. Drafts may be sent to planningse@highwaysengland.co.uk for agreement prior to formal submission to facilitate expeditious processing.

2) Fuel, Oil and Chemical Storage - Care should be taken during and after construction to ensure that all fuels, oils and any other potentially contaminating materials should be stored (for example in bunded areas secured from public access) so as to prevent accidental/unauthorised discharge to ground. The areas for storage should not drain to any surface water system.

Drainage - The following points should be noted wherever infiltration drainage (such as soakaways) are proposed at a site:

- Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water should drain directly to the system entering after any pollution prevention methods;
- No infiltration system should be sited in or allowed to discharge into land impacted by contamination or land previously identified as being contaminated;
- There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table;

- A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.

Disposal of soil - Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment

Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12-month period, the developer will need to register with us as a hazardous waste producer.

Proposed ecological enhancement schemes - Works such as Stage zero and river enhancements (Powdermill stream and Straight

Mile) are likely to require an internal Flood Risk Activity Permit, which will assess impacts for flood risk, environmental and ecological concerns.

Any floodplain or riverine based mitigation/enhancement schemes will need to demonstrate that the activity will not cause detriment to Water Framework directive (WFD) status or protected species.

If delivered, the changes could also be included as an update within the Biodiversity Net Gain (BNG) calculations. The LPA may request to see an update if they wish.

Invasive Non Native Species (INNS) management plan approach and named references It is welcome to see a dedicated plan for identifying and managing the risk of potentially spreading INNS either around site, or through the activity (Le. spread elsewhere off site). There is specific example reference to Himalayan balsam and mudsnail species, which are locally detected and relevant risks to manage. However, it is recommended that the plan continues to also approach other high risk species, including American skunk cabbage (also reported within the area, but not listed on the legislation as Himalayan balsam - yet presents a credible risk to colonise wetland

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areas just as well) another approach is to direct a focus on the biosecurity protocols to control the most likely potential spread pathways of the most likely range of assumed species, i.e. rather than purely a prescriptive approach to specific species.

This is because the risk of spreading and introducing INNS are assumed to be ubiquitous, and the measures in place which affect the potential spread pathways will be appropriate for a range of species. Different taxa will also require different spread risk pathway analysis and biosecurity protocols.

Recommendation for INNS biosecurity protocols in site management documentation
It is recommended to ensure biosecurity measures for each construction Area and phase is included within relevant Environmental Action Plan (EAP) and/or CEMP.

3) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

4) Any changes or improvements to the public rights of way across the site will require the express consent of the Highway Authority, in this case KCC PROW and Access Service.

5) Southern Water Informatives

- The 450 mm public foul sewer and 450 mm public foul trunk sewer requires a clearance of 3.5 meters on either side of the sewers to protect it from construction works and to allow for future access for maintenance. No development or tree planting should be carried out within 3.5 meters of the external edge of the public sewer without consent from Southern Water.

- The 350 mm public foul rising main requires a clearance of 3 meters on either side of the sewers to protect it from construction works and to allow for future access for maintenance. No development or tree planting should be carried out within 3 meters of the external edge of the public foul rising main without consent from Southern Water.

- No soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 meters of a public sewer.
- All existing infrastructure should be protected during the course of construction works.
- Please refer to: southernwater.co.uk/media/default/PLPDFs/stand-off-distances.pdf.
- For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Description of site

- 1 The site comprises works within three Local Planning Authorities (LPA). This is a cross boundary application for flood work improvements to the Leigh Flood Storage Area (FSA).
- 2 The total area of land is 278 hectares and proposed works straddle three LPA's, i.e. Sevenoaks District Council, Tonbridge and Malling Borough Council (TMBC), and a small part of the site within Tunbridge Wells Borough Council (TWBC) area. The largest part of the site area lies within our jurisdiction.
- 3 The Leigh Embankment extends 1.3km in a north to south direction. The northern end of the embankment lies circa. 100m south of the Tonbridge Environment Agency offices. It crosses the River Medway and Leigh Control Structure, passing under the A21 Tonbridge Bypass running adjacent to Haysden Water, and terminates at Lower Haysden Lane.
- 4 There is both formal and permissive public access throughout the Leigh area, with public rights of way crossing the Leigh FSA (following the course of the River Medway) and over the Leigh barrier embankment. There is also informal public access for recreational use along the Leigh embankment associated with Haysden Country Park, sailing and angling on Haysden Water, and angling on the River Medway.

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Background

- 5 Communities in Tonbridge and Hildenborough are at risk of flooding from the River Medway. Severe flooding occurred in these areas in 1960, 1963, 1968, 1974, 2001, and 2013/14.
- 6 There was significant flooding in Tonbridge and Hildenborough in 1968. The Leigh flood storage area (FSA) was built to reduce the risk of future flooding to approximately 1,200 homes and businesses.
- 7 The Leigh FSA is operated to store the peak water flows during a flood and, along with the Tonbridge town floodwalls, reduces the risk of flooding from the River Medway. It was completed in 1982 in response to the devastating flood of 1968.
- 8 The FSA is formed of a 1.3-kilometre-long, 5-metre-high earth embankment across the Medway valley. The River Medway itself passes through a reinforced concrete control structure (known as Leigh Radial Gates) built into the embankment which is currently located near to Haysden Lakes within our jurisdiction.
- 9 The structure includes 3 steel radial gates which can be moved to control the amount of water flowing downstream. The gates can either let the river flow normally, or restrict the flow to hold water in the storage area.
- 10 The original Flood Storage Area has a capacity of 5.56 million cubic metres, and covers 278 hectares stretching from Leigh upstream towards Penshurst.
- 11 In December 2019 the Environment Agency operated the Leigh Flood Storage Area (FSA) for the first time since 2014. Steady rain in the week before its operation gave rainfall totals of approximately 80mm for the week.
- 12 The Environment Agency started to store water on 20 December 2019. The FSA stored flood water for 62 hours in total before flows were low enough that water no longer needed to be stored. The water level in the reservoir reached 27.08m above ordnance datum (AOD). This means that 60% of the FSA's capacity was used.
- 13 Several weeks later on 16 February 2020, the Leigh FSA was needed again. Over a period of 66 hours' water was stored to a level of 27.83m AOD which this time used 90% of the total storage capacity.
- 14 There is a threat that climate change will increase the risk of flooding in the coming years. The Environment Agency is proposing a scheme to increase the storage capacity of the Leigh FSA. This will help reduce the risk of flooding to more local homes and businesses.
- 15 Currently the Environment Agency can legally store flood water to a maximum level of 28.05m above ordnance datum (AOD), as measured at the control structure. Investigations have shown that storing water to 28.6m AOD will reduce flood risk to over 1,400 homes and 100 businesses in Tonbridge and Hildenborough. Storing to this level will need 16.4 hectares

of extra land but will provide 7.3million m³ of storage. This increases the capacity of the FSA by 24%.

- 16 Increasing the maximum stored water level requires a separate permission from the Secretary of State for Environment, Food and Rural Affairs. This approval is essential for both the Leigh expansion and Hildenborough parts of the scheme to proceed. The Environment Agency has been working with local organizations and landowners who are affected by the proposal to explain what it means for them and discuss any concerns they have. The Environment Agency submitted their request to increase the maximum stored water level to the Secretary of State in early June 2020 and a public inquiry into the increased capacity is to be held in the new year.
- 17 The Secretary of State will decide whether or not the Environment Agency will be able to store flood water to 28.6m AODN, which is an increase of 0.55m from the existing 28.05m AODN.
- 18 Members of this committee are assessing the impact of the flood mitigation engineering works required to facilitate the increased flood water storage, the impact of those works within the immediate vicinity as well as their wider implications.

Description of proposal

- 19 The majority of the application site/works will be in Sevenoaks District Council, and in Tonbridge and Malling Borough Council areas.
- 20 This Council is the lead LPA on this cross boundary application for flood mitigation improvements to facilitate the Leigh Flood Storage Area (FSA) expansion scheme.
- 21 The same application has been submitted to all three LPA's. All three LPA's have also consulted one another as required by the planning legislation.
- 22 Proposed flood mitigation measures are to facilitate the Leigh Flood Storage Area (FSA) expansion scheme. Improvements to Leigh and Cattle Arch embankments to include: partial raising of embankments; installation of 300mm high wave return wall; creation of pumping station platform area; erection of new fencing and gates and other associated works that include culvert, eel pass, temporary access and compound areas.
- 23 The existing main embankment at Leigh is already high enough to accommodate the proposed increase in water level and allow more water to be held within the storage area. The maximum level at which water can be stored at Leigh barrier is set by legislation - within the River Medway (Flood Relief) Act 1976. Increasing the water storage level requires a change to this legislation. This is being addressed through a separate mechanism to the planning application for the scheme as detailed above.
- 24 Although no changes are required to the height of the main embankment, work is required to raise the cattle arch and pumping station embankments near Leigh, off Enfield Road, Leigh. The main embankment protrudes out from the railway embankment in a semi-circular shape and forms part of the

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retaining embankments that impound Leigh FSA. It is upstream of the control structure, to ensure that the increase in water level does not cause flooding in the village of Leigh. The scheme also includes proposals to prevent wind-driven waves eroding these upstream embankments.

- 25 The cattle arch embankment will therefore be raised up to 29.52m AOD with earth fill and re-seeded. A small 300mm high vertical wall will be inserted into the top of the front shoulder of the increased embankment as a wave return wall, the top of which will be at 29.52mAOD so it does not sit proud of the grassed crest. The wall will be incorporated into the southern edge of the grassed crest.
- 26 Southern Water's pumping station and the Environment Agency's Archimedes Screw site are both located off Ensfield Road, Leigh. The purpose of the Archimedes screw pump is to allow over pumping of water from a low-lying area draining from the north of the railway line, should the area ever become fully impounded.
- 27 The Southern Water pumping station will be affected by the increase in impounded water levels in the FSA. To mitigate the increased risk of flooding a new raised defence will be constructed along the crest of the existing earth embankment located to the south of the two pumping stations.
- 28 The raised defence will extend towards Ensfield Road and adjacent to the southern edge of the existing concrete access road that leads to the pumping stations. Before it reaches Ensfield Road, the defence line will turn south west across the small channel to tie into high ground at the edge of the agricultural field in the form of an embankment that is approximately 1.9m in height. This embankment will have the same wave return wall as the Cattle Arch Embankment. The proposed works in this area comprise a combination of raised existing earth embankment, new low-level concrete wall, road raising, and a new length of earth embankment.
- 29 The proposed Embankment and Pumping Station Platform will be sited south of the access road within Southern Waters Pumping Station site, west of Ensfield Road.
- 30 The area immediately west of Ensfield Road drains to a small watercourse running broadly west to east. To ensure that water does not become impounded (and present a risk of flooding) when the FSA is operating, a new pumping platform is required. The new facility will enable temporary pumps to be installed in the event of an extreme flood event, so that water can be pumped from this small catchment area and into the FSA.
- 31 The new flood embankment will be constructed across the drainage ditch, in an east to west direction. A culvert will be constructed within the drain, through the embankment.
- 32 A small hardstanding area with a stoned hard core finish is proposed as the pumping platform.

- 33 This area will be used as a set-down area for water pumps and associated fuel tank. The pumps will only be operated during an extreme flood event when the FSA is impounding and water is required to be pumped from the fluvial system to the north of the FSA embankment, into the FSA. The set-down area will measure approximately 10m x 15m and it will be located adjacent to the watercourse. The overall area of the proposed hardstanding will be approximately 300m². The hardstanding will also serve as a vehicle turning area that will be used by the Environment Agency during flood events, when delivering and operating the pumps, fuel tank and associated materials and equipment.
- 34 New mesh walkways and hand railing will be installed around the new structures, the new electricity supply cable will be run from an existing nearby substation, and the mechanical elements (pumps, screens, penstock mechanism) will be installed.
- 35 As part of the Scheme, the Environment Agency is also installing erosion protection on the crest, downstream slope, and toe of the main embankment. These 'Measures in the Interests of Safety' - or 'MIOS' - works are a legal requirement to ensure that the main embankment is protected from erosion should water levels ever exceed the maximum storage level. In the event that the FSA reaches its capacity and the maximum operating water level is reached, the operating procedure would remain unchanged: the gates would be operated to keep the stored water at a safe level.
- 36 The MIOS erosion protection materials will be covered with soil and then re-seeded with grass cover so that the appearance of the Main Embankment will not change. Upgrading and maintenance works are also planned to the Control Structure itself. This will include works to the gates, replacement kiosks and other mechanical/electrical elements.
- 37 Construction of the scheme is planned to commence in spring 2021 and continue until 2023. Works will be undertaken simultaneously at different locations to reduce the overall construction programme.
- 38 It is planned that the smaller scale works such as those proposed at the cattle arch and the pumping station embankment near Leigh will be completed during the first year of construction (2021). The MIOS works to the main embankment are larger in scale and will therefore be carried out over 3 consecutive seasons (2021 to 2023). The control structure will remain operational throughout the duration of the work. Works will be generally carried out between spring and autumn (March to October) when ground conditions will be drier and more favourable and the likelihood of needing to operate the control structure will be lower. The main site compound for the works will be set up next to the control structure, off Powdermill Lane.
- 39 Two additional compounds will be set up, one in Haysden Country Park (off Lower Haysden Lane - to service the MIOS works to the main embankment to the south of the railway) and the other near Leigh (off Ensfield Road - to service the pumping station and cattle arch embankment sites).
- 40 The proposal will also seek to maximise the delivery of multiple benefits into its

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- 41 projects to enhance biodiversity, heritage, landscape, and the human environment wherever it is feasible to do so. The Leigh FSA Expansion Scheme will replace any habitat damaged or lost through construction and at least achieve a 10% biodiversity net gain (BNG) to help improve the biodiversity value of the area. The enhancements range from replanting and woodland management, to the creation of scrapes to improve wetland habitat and stream restoration.
- 42 A formal request for an EIA screening and scoping opinion for the Scheme was submitted to the three Local Planning Authorities involved - Tonbridge and Malling Borough Council, Sevenoaks District Council and Tunbridge Wells Borough Council - in 2018. A further scoping request was submitted in December 2019 following significant changes to the Scheme (the removal of major earthworks to protect the railway which were no longer needed). The scoping opinion issued by Tonbridge and Malling Borough Council was informed by responses received from the other Local Authorities and statutory consultees (including Natural England and Historic England). The scoping opinion confirmed the issues to be addressed in the EIA.
- 43 It has to be noted that this application is for the flood mitigation improvements as proposed and not the consequential impact as the resultant increase in flood storage area capacity, as this decision is under consideration with the Secretary of State.

Relevant planning history

- 44 18/02956/ADJ - Request for Scoping Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011: whether the proposed works for the Leigh Expansion and Hildenborough Embankments Flood Risk Management Scheme are likely to require a statutory EIA - NO OBJECTIONS
- 45 20/0007/ADJ - Request for Scoping Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017: concerning proposed works for the Leigh Expansion and Hildenborough Embankments Flood Risk Management Scheme - NO OBJECTIONS

Policies

- 46 National Planning Policy Framework (NPPF)
- 47 National Planning Policy Guidance (NPPG)
- 48 Core Strategy (CS)
 - SP1 Design of New Development and Conservation
 - LO8 Rural Economy
 - SP11 Biodiversity
- 49 Allocations and Development Management Plan (ADMP)
 - SC1 Presumption in Favour of Sustainable Development

- EN1 Design Principles
- EN2 Amenity Protection
- EN4 Heritage Assets
- EN5 Landscape
- EN7 Noise Pollution
- G11 Green Infrastructure
- T1 Mitigating Travel Impact

50 Other:

- Development in the Green Belt Supplementary Planning Document (SPD)
- Countryside Character Assessment Supplementary Planning Document (SPD)

Constraints

51 The following Constraints apply

- Metropolitan Green Belt
- Flood Zones 2 & 3
- Areas of Archaeological Potential
- Source Protection Zone 3
- Flood Storage Area
- Biodiversity Opportunity Area
- Surface Water Flooding-medium and high risk areas
- Public Rights of Way SR432, SR435
- Local Wildlife sites
- Non-designated heritage assets - (WWII pillboxes and holdfasts)

Consultations

52 Leigh Parish Council - 'Leigh Parish Council supports this application and its very sound objectives, but members wish to make the following comments:

53 1. Traffic movements to the site both down Powdermill Lane and Ensfield Road are restricted in the application at peak times from 8-9am and from 4-6pm. The Parish Council ask that the hours of restriction are changed slightly in the afternoon to be from 3-5pm. This will avoid the school pickup time, which causes traffic congestion in the village.

54 2. We ask that traffic movements be co-ordinated so that the two out of three access roads into Leigh (Powdermill Lane and Ensfield Road) are not gridlocked with traffic movements to the site at the same time.

55 3. We seek assurance that the existing village drains which run into Crandalls Pond, then under the railway bridge towards the Environment Agency owned land to the south of the railway bridge are not adversely impacted by these proposals.

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- 56 4. We seek assurance that the drainage systems under the railway bridge on Ensfield Road are not adversely impacted by these proposals. There are a number of agencies that control drainage in this location: the Environment Agency, Highways and Network Rail, please can these three work in partnership to ensure that drainage is free- flowing.
- 57 5. We request that an embankment is built at the eastern end of the railway embankment where the river goes under the railway so that that field, the cattle arch foundations and the gardens of Wyndham Close are not adversely impacted.'
- 58 Penshurst Parish Council - objects for the following reasons:
- 59 'Initial flooding occurs at Chafford Bridge (Chafford Lane), Colliers Land Bridge (B2188), Long Bridge (B2188) and Rogues Hill (B2176) due to the flow of water from upstream, rather than through the operation of the Leigh Barrier. However, once the barrier is in operation, the floodwater in these areas of the FSA cannot continue to flow downstream at the same rate as if it were not impounded.
- 60 As a result, roads remain flooded and properties between the rivers Medway and Eden are effectively cut off and unable to be accessed by emergency services. We note that Page 4 figure 2.2 of the Planning Statement shows that "water levels in the FSA take longer to reduce due to greater volume of water".
- 61 Consequently, it is very clear that, whilst the increase in depth of the flooding of the roads may be minimal, the duration will be increased - in other words, the flood risk is increased.
- 62 We would also stress that water levels are not measured on the B2176 between the two bridges at the bottom of Rogues Hill, downstream of the confluence between the rivers Medway and Eden. Any measurements are extrapolated from readings taken further upstream and as such should be treated as indicative rather than accurate.
- 63 The application identifies receptors downstream of the barrier, but, as well as the roads identified above, fails to identify the properties upstream which will be affected, namely Bridge House and the studio in the garden of Colquhouns Cottage. Currently, the garden of The Yews at the bottom of Rogues Hill (B2176) also floods and it is possible that even a 0.1 m increase in flood level could
- 64 affect the house. However, since no measurement of flood depth has ever been made on this stretch of road, neither the Parish Council nor the Environment Agency can assess the likelihood of this.
- 65 In conclusion, the application fails to acknowledge the increased flood risk and fails to provide any measures required to mitigate this risk. Whilst we appreciate the benefits to properties and businesses downstream of the barrier, we regret we cannot support the application unless

1) adequate highway measures are included to ensure that the safety of our parishioners is not put in jeopardy by the prolonged closure of roads to emergency vehicles and;

2) appropriate measures are taken to mitigate the increased risk to the properties and land within our Parish.'

- 66 Tunbridge Wells Borough Council - No objection
- 67 Tonbridge and Malling Borough Council - No comment received
- 68 Other Consultees -
- 69 Environment Agency - No objection subject to recommended planning conditions and informatives
- 70 Environment Agency independent review -
- 71 "In summary, the FRA is in line with the NPPF and PPG in that it has modelling to fully demonstrate both the benefits and impacts of the scheme (extents, depths, duration of flooding and increased release times). It does consider climate change but we would suggest for transparency using the allowances for More Vulnerable/residential properties (35%) as that is what the scheme is designed to protect rather than just allowances for water compatible development (as the planning application is for flood control infrastructure). Third party impacts could be elaborated upon i.e. the compensation originally agreed with landowners when the scheme was built, any discussions/mitigation agreed with landowners either listed in the FRA or owning land in the 16.4 hectares which has not previously been affected when the levels were at 28.05m AOD.
- 72 **Net Gain:** Whilst we understand that a 10% biodiversity new gain (BNG) improvement has been factored into the scheme we would recommend a 20% provision in line with EA eMission2030 tool. The tool proposes that as an organisation we will be achieving 20% net gain on EA operations by 2023, higher than the generally referred to 10%. We note that the 'Kent Nature Partnership' have also recommended the 20% provision to utilise this opportunity of setting an example on a large site where gains could be maximised and also options on land outside of the red area.
- 73 Section 7.7 of the ES (Biodiversity) mentions habitat reinstatement and enhancement and shows a plan of areas. But it is not clear whether all/any of the options (within the WFD report) are being further considered or implemented e.g. 'stage-zero' river restoration, the creation of wetland features within the Leigh FSA, improvements on the Powdermill stream, the Straight Mile section of the Penshurst Canal and within the Haysden Country Park (the 'Shallows' and other areas).
- 74 Should the above not be achievable, due to the impact on the schemes viability, we would expect to see this justification provided.
- 75 **Water Framework Directive (WFD):** We note the WFD Assessment report that JBA have undertaken in consideration of the potential hydrological and

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geo-morphological impacts. The report confirms that the works lie within the area covered by the Thames River Basin Management Plan (RBMP) and that the scheme involves work on a feature crossing the Medway that could directly impact the Mid Medway from Eden Confluence to Yalding WFD water body (GB106040018182).

- 76 We haven't reviewed the report in detail but note the conclusion that the scheme has been assessed as being WFD compliant with impacts not expected to cause a deterioration in overall status.
- 77 Again, we note the mitigation required as detailed in section 4.2 and also the potential enhancement options/habitat creation and also the potential fish pass option at the Leigh Control Structure which was not considered viable. Linked to the net gain comments above we would recommend that these options be considered as part of a 20% BNG provision if possible.
- 78 The scheme, including the proposed mitigation works will require a Flood Risk Activity Permit (FRAP) which, similar to the planning application, will likely require an internal independent review.”
- 79 Natural England - No objection raised.
- 80 Network Rail - No objection raised
- 81 Highways England - No objection subject to condition relating to works near the A21
- 82 Southern Water - No objection raised
- 83 KCC Lead Flood Authority: No objection raised
- 84 KCC Public Rights of Way - No objection subject to the use of surfacing on Public Bridleway MU60 and no steps will be placed on the legal line of the footpaths SR435 and MU46.
- 85 KCC Highways - No objection subject to the following pre-commencement condition.
- 86 A condition survey is required before the commencement of the construction works and following the completion of the works.
- Wheel washing to be provided on site and to include adequate drainage arrangements to ensure no water drains over the public highway with regular checks of the public highway.
 - An agreed restriction of HGV movements per day
 - Appropriate temporary warning signs are required in advance of the construction access and at the construction access and maintained at the applicant's expense throughout the construction period.
 - On-site parking arrangements for all operatives together with measures to reduce the daily number of trips to the site.
 - Early consultation with KCC streetworks Coordination Team is recommended.

- 87 KCC Ecology - No objection subject to conditions
- 88 KCC Archaeology - No objection raised
- 89 SDC Environmental Health - No objection
- 90 SDC Tree Officer - No comment received
- 91 Kent Wildlife Trust - No comment received

Representations

- 92 1 letter received neither objecting nor supporting the proposal
- 93 1 rebuttal letter from planning agent
- 94 8 letters of objection have been received relating to the following issues:
 - Flooding would undermine the railway embankment and cattle arch railway bridge (area 2);
 - No certificate was received;
 - Lack of consultation with Environment Agency with Penshurst Place Estate;
 - The impact and operation of Penshurst Place Estate has not been properly assessed;
 - No mitigation or accommodation of works have been proposed to address risk to the Penshurst Place Estate and its occupiers;
 - It is believed that the development would lead to increase of flooding elsewhere in particular to the roadway between the two stone bridges on B2176 in Penshurst, a studio in the garden of Colquhouns Cottage and Bridge House;
 - Proposed development is contrary to National Planning Policy Framework;
 - 3 residents would like a condition to be imposed in ensure the Environment Agency pays the cost of making the occupiers buildings resilient to flood and agree to financial settlement/compensation should flooding exceeds agreed water depths.

Chief Planning Officer's appraisal

- 95 The main planning considerations are:
 - Findings of the submitted Environment Statement
 - Impact upon the Green Belt and character and appearance of the area
 - Water and Flooding
 - Biodiversity
 - Impact upon residential amenities
 - Highways and Public Rights of Way
 - Heritage Assets

Findings of the submitted Environmental Statement

- 96 This planning application is accompanied by an Environmental Statement (ES) in accordance with Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended). The purpose of the ES is to identify the likely environmental impacts of the development.
- 97 This process can also identify ways in which the development can be modified to avoid, reduce or offset likely adverse impacts, as well as ways in which beneficial impacts can be optimised.
- 98 For the purposes of this report, the key findings and environmental information are set out below, including the weight to be attached to those impacts.
- 99 Water and Flooding
- 100 The ES confirms that the expansion scheme would meet the Water Framework Directive objectives by requires natural water bodies in achieving Good Chemical Status and Good Ecological Status. With various ecological measures proposed to be implemented i.e. eel pass, river restoration, will assist in achieving such compliance with the Directive.
- 101 The ES provides flood modelling information with regards to the increased storage capacity of the FSA. The additional capacity of the FSA will flood an additional 16.4ha of land when the water is impounded. The greatest change in depth is in the immediate vicinity of the FSA embankment and the effect diminishes in the flood valley upstream, due to the existing topography of the valley. The ES identifies the potential receptor affected by the increase in water levels being:
- 102 Railway line to the east of Leigh Station - due to high water levels during impoundment, but would not exceed the level of the railway;
- 103 Tonbridge Sailing Club - The existing structure is set above the proposed maximum storage level and it is classified as water compatible development in the NPPF;
- 104 Ensfield Road - An increased depth of flooding up to 0.5m is predicted.
- 105 The impacts are considered to be slight adverse effects. Any impacts from such changes will be limited and within the area already flooded. The increased capacity of the FSA does not change the flood risk to any households.
- 106 The increase of capacity of the FSA will provide a decrease in flood risk of Major magnitude, by improving flood risk for hundreds of properties downstream in Tonbridge - over 1400 homes and 100 businesses, plus critical infrastructure. The scheme will deliver a very large beneficial impact in relation to flood risk and have a long-term benefit.

- 107 The proposal include works to further enhance the safety of the embankment i.e. from erosion, so the likelihood of a breach occurring is not expected.
- 108 Biodiversity, Flora and Fauna
- 109 The predicted effects of the scheme on biodiversity, during both construction and operation, are considered to be minimal, with very few permanent adverse effects as a result of the Scheme. Impacts mainly relate to small scale vegetation clearance and tree removal which will be reinstated on completion of the works or addressed through proposals for compensation planting or management. No significant long-term adverse effects are anticipated in terms of overall ecology. More detail regarding site clearance requirements is provided on the Final Landscape Masterplan drawings of the ES and the Arboricultural Impact Assessment for the Scheme.
- 110 By adopting a Biodiversity Net Gain approach and the proposed ecological enhancement measures, the Scheme will deliver a net positive impact on biodiversity, flora and fauna. The proposals include woodland habitat management and habitat creation/enhancements within the mitigation and enhancement areas identified on the Scheme Overview Plan.
- 111 Biodiversity Net Gains of at least 10% are predicted in relation to habitats and 13% for hedgerows, giving a significant positive residual effect overall. If funding allows, additional habitat gain over and above this could be delivered by the scheme.
- 112 To address Water Framework Directive objectives, an eel pass will be provided on the River Medway by the Control Structure along with habitat improvement works on Powdermill and Straight Mile streams.
- 113 Conditions can be imposed to secure the management and mitigation required.
- 114 Other legislations will still apply in relation to any protected species.
- 115 Archaeology and Heritage
- 116 The ES identifies that the scheme is unlikely to contain archaeological remains of such sensitivity that warrant preservation in situ. There are identified areas of archaeological potential - Prehistoric, Romano-British, Saxon, Medieval, Post Medieval, Modern. The ES summarises that in terms of built heritage and archaeology receptors, no cumulative impacts have been identified and any groundworks proposed are of shallow excavation and limited and no archaeological monitoring or investigations are undertaken.
- 117 Human Environment
- 118 The main impacts of the Scheme on local residents and visitors are likely to be as a result of local travel disruption (in relation to construction traffic and deliveries) and the dust, noise and visual impacts associated with construction activity. Traffic lights will be required on Lower Haysden Lane

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to allow HGV access for deliveries to the compound that is proposed in Haysden Country Park.

- 119 Construction impacts will be minimised through good construction practice and specific mitigation measures as set out in the Environmental Action Plan (EAP). These will include controls on working hours and how construction is to be carried out. The Contractor will develop a Traffic Management Plan prior to construction to minimise traffic disruption.
- 120 Access to the sailing club, Haysden Water and the Haysden Country Park will be maintained for visitors throughout construction.
- 121 There will potentially be adverse impacts on recreational users of the Country Park during construction due to construction noise, dust or impact on visual amenity, but this will be temporary. Footpaths and other Rights of Way may need to be diverted locally during construction or temporarily closed. If this is necessary measures will be agreed with Kent County Council and advance warning will be provided, along with appropriate local diversion routes.
- 122 As an enhancement, new steps will be provided as part of the scheme on the line of the Public Rights of Way that cross the main embankment (Footpaths MU46 and SR435) but would not cross their legal line.
- 123 Landscape and Visual environment
- 124 The scheme will have no long-term effects on landscape character due to the limited scale and nature of the works proposed and the re-establishment of vegetation that will be removed during the construction works. After installation of the MIOS erosion protection on the main embankment, grass will be re-established - impacts on landscape character and views will therefore be short-term and temporary. As part of the pumping station / cattle arch embankment works, there will be construction of a new flood embankment as well as a nominal change in height of the existing embankment.
- 125 These changes are not expected to have a significant effect on local views or character. When areas have been replanted the changes will not be noticeable in the context of the existing pumping station infrastructure.
- 126 The residential properties most likely to be affected by the Scheme are those overlooking construction areas on Lower Haysden Lane or located on Ensfield Road with views towards the pumping station embankment. However, impacts would be short-term, during construction activity. No long-term landscape or visual impacts are predicted on residential receptors because of the scheme.
- 127 Where installation of erosion protection on the main embankment means it will not be possible to replace woodland or scrub, planting will be carried out within the mitigation and enhancement areas.

- 128 This will include creation of wood pasture parkland landscape within Area 3, reinforcing the sense of place and distinctive landscape character seen within the large estates nearby.
- 129 Cumulative affects and Interrelationships
- 130 Effects can be more significant when impacts of a proposed scheme are considered alongside the environmental impact of other existing or approved projects.
- 131 Consultation with the planning teams for the relevant local authorities - namely Tonbridge and Malling Borough Council, Sevenoaks District Council and Tunbridge Wells Borough Council - and a review of local planning applications did not identify any other developments of a scale that were likely to cause significant effects should they overlap with the Scheme. Inter-relationship effects for local residents and visitors have already been partly considered above, in terms of the combined effects of changes to visual amenity, noise impacts, dust and disruption due to traffic and impact on those taking part in recreational activity within Haysden Country Park.
- 132 Mitigation for the Scheme will include measures set out in the Environmental Action Plan (EAP), such as the appointment of a Community Liaison Officer, controls on speed limits and working hours/timing of deliveries.”
- 133 Summary of ES
- 134 The scheme will provide significant benefits to residents and to business downstream from the FSA.
- 135 Significant benefits for biodiversity would also be delivered with a minimum of 10% Biodiversity Net Gain.
- 136 There are some impacts upon the landscape character and visual amenity during construction, but this will be temporary and in the short-term.
- 137 There will be disruption during access to local residents and visitors to Haysden Country Park and users of the PROW’s, however this too will be in the short-term.
- 138 Taking the above into account, it is considered that the Environmental Statement is fit for purpose and assessment of cumulative effects has been carried out in accordance with the provisions of existing national and local policy guidance.

Impact upon the Green Belt and character and appearance of the area.

- 139 Paragraph 133 of the NPPF states that “the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”. Paragraph 134 provides five purposes to Green Belts, including point c), to assist in safeguarding the countryside from encroachment.

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- 140 The openness of the Green Belt has a spatial aspect as well as a visual aspect. In respect of a recent Supreme Court judgement reference - Samuel Smith Old Brewery (and others) v North Yorkshire County Council, [2020] UKSC 3 states that how to take account of the visual effects of a scheme on openness is a matter of planning judgement rather than one of legal principle. The judgement also noted that openness is the counterpart of urban sprawl and that it does not imply freedom from any form of development and that the visual qualities of the land may be an aspect of the planning judgement in applying this broad policy concept.
- 141 In accordance with paragraph 146 of the NPPF, exceptions to inappropriate development include engineering operations provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
- 142 It is considered that the proposals would not demonstrably harm the openness of the Green Belt. The works proposed to the existing embankments are minimal and justified. The development would take place against either existing structures or adjacent embankment and as such they are not considered to conflict with the purposes of land being within the Green Belt. As such the development would constitute as appropriate development within the Green Belt and comply with NPPF.
- 143 Policy SP1 of the Core Strategy states that all new development should be designed to a high quality and should respond to the character of the area in which it is situated.
- 144 Policy EN1 of the ADMP states that the development should respond to the scale, height, materials and site coverage of the area and should respect the character of the site and surrounding area.
- 145 A Landscape and Visual Impact Assessment (LVIA) has been prepared and can be found at Chapter 10 of the Environmental Statement. The LVIA assessed the effects of the proposal on both landscape character and visual amenity.
- 146 The LVIA notes that works on the main embankment are short-term and temporary and involve no change in embankment height. The works within the pumping station / cattle arch area are minor and involve the construction of a new, low flood wave wall and embankment as well as a nominal change in height of the existing embankment.
- 147 There will be no long-term effects on landscape character at either a national, regional or local level due to the scale and nature of the scheme and the re-establishment of vegetation removed to allow construction.
- 148 The visual effects will be short-term and limited to the period of construction until grass cover is re-established. No long-term impacts are predicted on residential receptors because of the scheme.
- 149 Where tree and vegetation clearance works are proposed, re-planting will be carried out with additional planting undertaken in the defined mitigation and enhancement areas. This will include creation of wood pasture parkland

landscape within Area 3, reinforcing the sense of place and distinctive landscape character seen locally.

- 150 Given the scale and temporary nature of the work, and proposed planting and enhancements, the proposals will not have any lasting impact upon local landscape or views including into or from the adjacent High Weald AONB. The proposals are therefore in accordance with policies LO8, SP1, of the Core Strategy and Policies EN1 of the ADMP.

Impact of flooding

- 151 Storing water to 28.6m Above Ordnance Datum (mAOD) will flood an additional 16.4 hectares of land when the storage area operates to full capacity, but this will provide 7.3million m³ of storage - a capacity increase of 24%. The additional land that would be flooded if the Storage Area were to store flood water to 28.6m AOD would be mainly agricultural land.
- 152 By increasing the volume of storage that is permitted behind the embankment the Flood Storage Area will be able to accommodate more severe flood events in the future. The scheme will decrease flood risk for hundreds of properties, businesses and transport infrastructure downstream in Tonbridge and Hildenborough, delivering a significant beneficial impact for the local area (reducing flood risk to over 1,400 homes and 100 businesses downstream).
- 153 The 2015 Medway flood model indicates that in certain circumstances, operation of the flood storage area can slightly increase the depth of flood water in the vicinity of Rogues Hill (B2176), Bridge House, The Yews, the garden of Colquhouns Cottage and the Concrete Road by Place Barn Farm when the water level reaches 28.05 metres above Ordnance Datum (mAOD) measured at the barrier. However, the depth and timing of flooding at Penshurst is principally dictated by upstream flows and in many events (when the capacity of the flood storage area is not fully used) operation of the flood storage area has no or negligible effect this far upstream due to the natural topography/flood plain of the area.
- 154 Penshurst Parish Council object to this proposal because they are concerned that the proposed changes for which planning permission is sought will increase the flood risk to roads when the increased capacity of the flood storage area is used principally due to it taking longer for water levels within the flood storage area to return to normal.
- 155 They are also concerned that the proposed changes will increase the flood risk to Bridge House, a studio in the garden of Colquhouns Cottage and The Yews.
- 156 The Flood Risk Assessment confirms that the development for which planning permission is sought will not change the flood water levels at Rogues Hill or at the location of the three named properties (see section 5.1 of the Flood Risk Assessment). Under the proposed change, when the flood storage area is operated to its maximum capacity, the duration of flooding at Rogues Hill may be longer.

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- 157 The Environment Agency recognises the concerns regarding the impact of flooding in the parish. The Environment Agency have engaged the National Flood Forum, to help the local community to set up a flood action group. This will allow the concerns of the community to be raised with all of the organisations involved in managing flood risk, such as Kent County Council Highways, so that ways to mitigate the impact and improve the resilience of the community to flooding can be explored together. This may lead to the development of a traffic management plan for use when Rogues Hill is anticipated to flood.
- 158 The residents of 4, 5 & 7 Wyndham Close have expressed concerns that the current maximum extent of flooding north of the railway line will extend further west, potentially affecting the foundations of the Cattle Arch Railway Bridge and their gardens.
- 159 The extent of flooding is shown in the plans included in Appendix A of the Flood Risk Assessment. The area of land that currently floods north of the railway line forms part of the capacity of the flood storage area. The existing ground levels in the field to the east of the track running from The Green Lane and Green View Avenue to the Cattle Arch rise sufficiently to contain the flood water in this area before it reaches this track and the gardens of the houses in Wyndham Close beyond it.
- 160 There are also third party concerns in Penshurst that that the proposed development is contrary to National Planning Policy because it will increase the flood risk. It is also claimed that the Environment Agency's modelling relies upon estimated water levels at Penshurst, and each time their properties flood is after the Environment Agency commences impounding of the FSA. They have requested a condition which prohibits operation of the expanded FSA until after a financial settlement has been reached with the Environment Agency.
- 161 The Leigh Flood Storage Area (FSA) was constructed in the early 1980s by the Southern Water Authority using powers granted to it contained in the River Medway (Flood Relief) Act 1976 (the 1976 Act). This Act of Parliament also authorised the Southern Water Authority to control the flow of the River Medway when required and temporarily store the excess water upstream of the embankment in order to reduce the flood risk for properties in and around Tonbridge and Hildenborough. When the flow control structure can be used and the maximum depth to which water can be stored within the FSA was also approved by the Minister.
- 162 The FSA is now operated by the Environment Agency, as the statutory successor to the Southern Water Authority. The Environment Agency has submitted an application to the Minister seeking consent to raise the maximum depth to which water can be stored.
- 163 Property interests are protected by an obligation upon the Environment Agency in section 17(4) of the 1976 Act to pay full compensation where damage is sustained because of the operation of the FSA.
- 164 In order to discharge that obligation to pay compensation each time damage is sustained, the Southern Water Authority entered into agreements with

landowners when the FSA was constructed under section 25 of the 1976 Act. The consideration for those agreements gave the Southern Water Authority (and now its successor, the Environment Agency) the right to flood that part of the owner's land identified on a plan attached to the agreement for any duration and to any depth. There are agreements which cover the kitchen of Bridge House (but not the living room nor dining room), a large part of the garden at The Yews including the greenhouses and sheds (but not the stables or house), and part of the garden at Colquhouns Cottage (but not the studio).

- 165 If consents are granted so that more water can be stored in the FSA, much of the additional 16.4 hectares that will be flooded across the whole FSA during the most severe events is already covered by these agreements. Where land is not covered by an existing agreement, owners can rely upon the statutory protection provided by section 17(4) of the 1976 Act for damage sustained.
- 166 Bridge House, The Yews and the garden of Colquhouns Cottage are within the floodplain of the River Medway so are affected by naturally-occurring flooding. These properties are situated at the upper end of the reservoir that is created when the FSA is used. The additional information contained in Appendix 1 demonstrates how the flooding in Penshurst is dominated by naturally occurring flooding which occurs before impounding commences. The Leigh FSA only operates when there are high flows in the river. Therefore, the same conditions that drive naturally-occurring flooding in Penshurst also determine operation of the FSA.
- 167 However, the Environment Agency acknowledges that operation of the FSA currently may, in certain circumstances, make the flood water slightly deeper at Penshurst, depending on the severity of the flood event. Therefore, in accordance with the 1976 Act, compensation has been paid to those who have suffered damage as a result of operation of the FSA where that damage is not covered by an existing agreement.
- 168 Section 5.1 of the Flood Risk Assessment confirms that the proposed changes for which planning permission is sought will not increase the extent or depth of flooding at Bridge House, The Yews or the garden of Colquhouns Cottage. Therefore the conditions sought by the three objectors fail the tests set by paragraph 55 of the National Planning Policy Framework, in particular because (i) the conditions are not necessary because of the existing statutory obligation to pay compensation if damage is caused, (ii) they are not relevant to planning, and (iii) they are not relevant to the development to be permitted because the request seeks to address an existing concern and the proposed changes do not increase flood risk in these locations.
- 169 That said, where it has been identified that there is a residual liability to pay compensation for future damage caused by operation of the existing FSA, the Environment Agency is willing to consider entering into new agreements with those affected in full and final settlement of those potential claims for future damage for which compensation would be payable in accordance with the 1976 Act.

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- 170 The greatest change in depth in flood water is in the immediate vicinity of the FSA embankment and the effect diminishes in the flood valley upstream, due to the existing topography of the valley. The impacts are considered to be slight adverse effects as noted from the ES. Any impacts from such changes will be limited and within the area already flooded. The increased capacity of the FSA does not change the flood risk to any households.
- 171 The increase of capacity of the FSA will provide a decrease in flood risk of major magnitude, by improving flood risk for hundreds of properties downstream in Tonbridge - over 1400 homes and 100 businesses, plus critical infrastructure. The scheme will deliver a very large beneficial impact in relation to flood risk and have a long-term benefit.
- 172 As such the impact arising from the increased capacity of the FSA, is limited and any identified impacts upon existing receptors are limited. The scheme will deliver a significant benefit upon those households and businesses within Tonbridge - downstream of the FSA by reducing the risk from flooding. The socio and economic benefits in this instance far outweigh the impacts of this development. As such, the development would comply with the aims and objectives of the NPPF.

Impact upon biodiversity

- 173 The NPPF recognises that, when determining planning applications, local planning authorities have an obligation to promote the conservation and enhancement of biodiversity by:
- Ensuring that adverse impacts are avoided, adequately mitigated or compensated for;
 - Refusing developments that may adversely impact on Sites of Special Scientific Interest (SSSIs) or their interest features unless the benefits of the development clearly outweigh the impacts;
 - Permitting developments where the primary objective is to conserve or enhance biodiversity;
 - Encouraging proposals to incorporate biodiversity in and around developments; and
 - Refusing planning permission for developments that would result in the damage or deterioration of irreplaceable habitats (e.g. ancient woodland, veteran trees).
- 174 Policy SP11 of the Core Strategy and Policy GI1 of the ADMP would apply. Comprehensive Phase 1 and Phase 2 habitat surveys together with any mitigation has been undertaken and submitted as part of the ES. These include:
- Phase 1 Habitat Survey Maps and Target Notes;
 - Protected Species Survey Report;
 - Badger Survey Report;
 - Vegetation Survey Report;
 - Great Crested Newt Survey, and
 - Dormouse Survey Report.

- 175 KCC Ecology has reviewed the information and expressed no objection to the proposal subject to the imposition of a condition for further information relating to the submission of a biodiversity enhancement plan that shows a positive Biodiversity Net Gain, as cited by the ES. The requirement on the scheme is to provide a minimum of 10% Biodiversity Net Gain. The scheme is providing this. The stretch target and Kent Nature Partnership target of 20% will be pursued once the scheme has fulfilled the other minimum requirements. In light of this, KCC Ecology has requested further information with regards to Biodiversity Net Gain calculations which will secure at least the 10% minimum net gain threshold.
- 176 Natural England raises no objection to the proposal.
- 177 As such the proposal would accord to the aforementioned policies.

Impact upon residential amenities

- 178 Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing and future occupiers of the development, while ensuring it would not result in excessive overlooking, visual intrusion, vibration, odour, air pollution, vehicle movements, or a loss of privacy and light enjoyed by the occupiers of nearby properties.
- 179 The proposed development would have no affected upon the existing residential amenities upon nearby residential properties in Leigh due to the separation distances involved and the sufficient physical separation by the railway and other intervening vegetation. However, it is noted that there will be additional vehicular construction traffic movements and construction activity arising for the development proposals that may cause some disruption. As such, as cited in the ES, this can be controlled by the use Environmental Action Plan that puts restrictions in place to minimise any impact arising from noise, dust vibration. The Councils Environmental Health Officer has raised no objections to this proposal. As such, any adverse effects arising from the development of the scheme can be adequately mitigated and that any impact is only in the short-term. By adhering to the proposal Environmental Action Plan would ensure compliance with Policy EN2 of the ADMP.

Impact upon highways and existing Public Rights of Way

- 180 It is proposed that construction is due to commence in Spring 2021, with the main construction activities planned during the summer period of the year (April until October). The works will be undertaken simultaneously at different locations to reduce the overall construction programme.
- 181 Wherever possible, works will be completed within a single year of construction (i.e. one summer season, extending until October). This is anticipated to be achievable in 2021 for smaller scale works such as the works at the cattle arch and the pumping station embankment and have less impact if constructed during the winter months. The MIOS works are larger in scale and will be carried out over 3 consecutive summer periods 2021 to 2023.

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- 182 Full details of the scheme with an indicative programme, anticipated traffic numbers, routes, and movements, are set out at Chapter 3 of the ES. Traffic Management controls such as staggered delivery timings, signage, traffic lights and specific route plans for deliveries, large and abnormal loads will be employed to minimise disruption to residents, schools, and businesses.
- 183 An increase levels traffic levels will be temporary during the construction works. There will be no increase in operational traffic as a result of the Scheme. The Cattle Arch compound will be located in Leigh. This will be accessed from the A21 and will therefore not impact on the local road network in Sevenoaks.
- 184 KCC Highways has raised no objection to the scheme and requested for a condition to the imposed relating to Construction Environmental Management Plan (CEMP). This is considered to be reasonable and necessary in accordance with the NPPG.
- 185 There will potentially be adverse impacts on recreational users of the Haysden Country Park during construction due to construction noise, dust or impact on visual amenity, but this will be temporary and also located within the constitutional boundaries of TMBC. Footpaths and other Rights of Way may need to be diverted locally during construction or temporarily closed. If this is necessary measures will be agreed with Kent County Council and advance warning will be provided, along with appropriate local diversion routes.
- 186 As an enhancement, new steps will be provided as part of the scheme adjacent to the line of the Public Rights of Way that cross the main embankment (Footpaths MU46 and SR435). The PROW officer has raised no objection to this part of the scheme providing the steps do not cross into the definitive line of the existing PROW's. Further to this, new surfacing is proposed to MU60, however this part of the scheme is within the Constitutional boundaries of TMBC and subject to the imposition of their own planning conditions if permission were to be forthcoming.
- 187 The recommended informative has been added with regard to express consent from the Highway Authority for changes to public right of ways.

Heritage Assets

- 188 The proposal involves works/improvements to existing flood assets. The previous construction activities associated with the construction of the existing assets are expected to have already removed any near surface archaeological remains. Significant archaeological remains, if present, are likely to be buried at depth within alluvium (material deposited by rivers) and therefore beyond the impact of these works. Therefore, there would be no impact on archaeological remains because of the extent of the works proposed.
- 189 The proposed works at the cattle arch embankment and pumping platform are screened from nearby listed buildings at Pauls Farm (off Ensfield Road, Leigh) by dense, mature vegetation. The proposal area makes no

contribution to the setting and significance of the buildings. The works will result in a temporary, slight adverse significance of effect on the setting on Paul's Farmhouse, barn granary (and farmstead as a whole. Any temporary impacts will be mitigated by reinstatement works and proposed planting on completion of the scheme.

- 190 As such the proposals will therefore conserve the setting of the listed buildings. The scheme will help to protect and conserve heritage assets from flooding. Therefore, the proposals comply with Policy EN4 of ADMP and section 66 of the Planning and Listed Buildings Act 1990.

Other Issues

- 191 It should be noted that individually, some works to existing flood defence embankments, on Environment Agency 'operational land' (land which is used for the purpose of carrying out their undertaking, as defined in the Town and County Planning Act 1990), would constitute permitted development in accordance with Schedule 2, Part 13, Class D of the Town and County Planning (General Permitted Development) (England) Order 2015. However, the scheme as a whole is included within the EIA and planning application.
- 192 An objection has been submitted on behalf of Penshurst Place Estate, citing five concerns / grounds of objection.
- 193 The Estate's first ground of objection is that there is no guarantee the Environment Agency's application to the Minister for consent to raise the maximum stored water level in the flood storage area from 28.05 metres above Ordnance Datum (mAOD) to 28.6m AOD will be successful. This statement is correct but it is not a valid reason to refuse to grant planning permission.
- 194 The Estate's second ground of objection is the Estate say they did not receive formal notification of the planning application as required by Article 13 of the Town and Country Planning (Development Management) (England) Order 2015. However, the applicant stated that two notices were sent by Royal Mail Signed for to the Estate on 19 August 2020, copies of the proof of delivery have been submitted.
- 195 The Estate's third concern relates to the Environment Agency's rights to carry out proposed construction works on the Penshurst Place Estate's wider land holding given that the Environment Agency have not yet reached an agreement with the Estate. This is not a valid reason to refuse grant of planning permission as this is a private/civil matter.
- 196 Concern has been raised that the proposed changes risk could compromise Penshurst Place ability to maintain its income streams due to access issues caused by flooding events. Flood Risk Assessment submitted confirms that the proposed development for which planning permission is sought does not increase the extent or depth of flooding on the concrete road near to Place Barn Farm - which is a private road. Therefore, the proposed development will not impede access to the Penshurst Place Estate.

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- 197 Lastly the Estate wishes for the Environment Agency to invest in raising the concrete road making it more flood resilient. However, as this is private road, and the modelling shows as this part of the Estate would not be affected by the changes, to do this off-site works would be unreasonable and unjustified in this instance.

Community Infrastructure Levy (CIL)

- 198 The proposal is not CIL liable

Conclusion

- 199 The proposed works will assist to reduce the risk of flooding to hundreds of properties and commercial businesses. The flood risk benefits of the scheme significantly outweigh any minor, temporary environmental impacts resulting from the construction work. These impacts will be managed and mitigated through the use of an Environmental Action Plan (EAP) and other mitigation measures to control working methods and deliver planting and habitat enhancements. The development proposed is considered to be appropriate development within the Green Belt and would be compliant with Development Plan Policies.

Background papers

Site and block plan

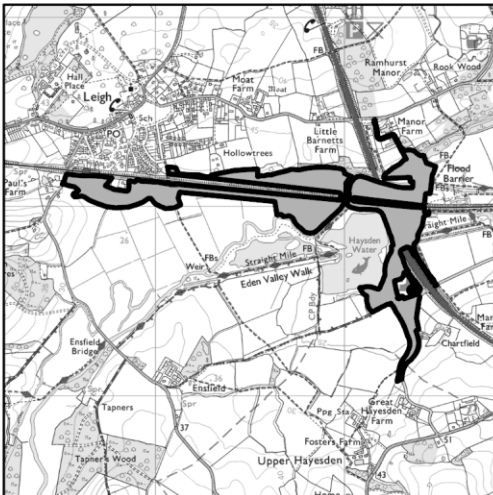
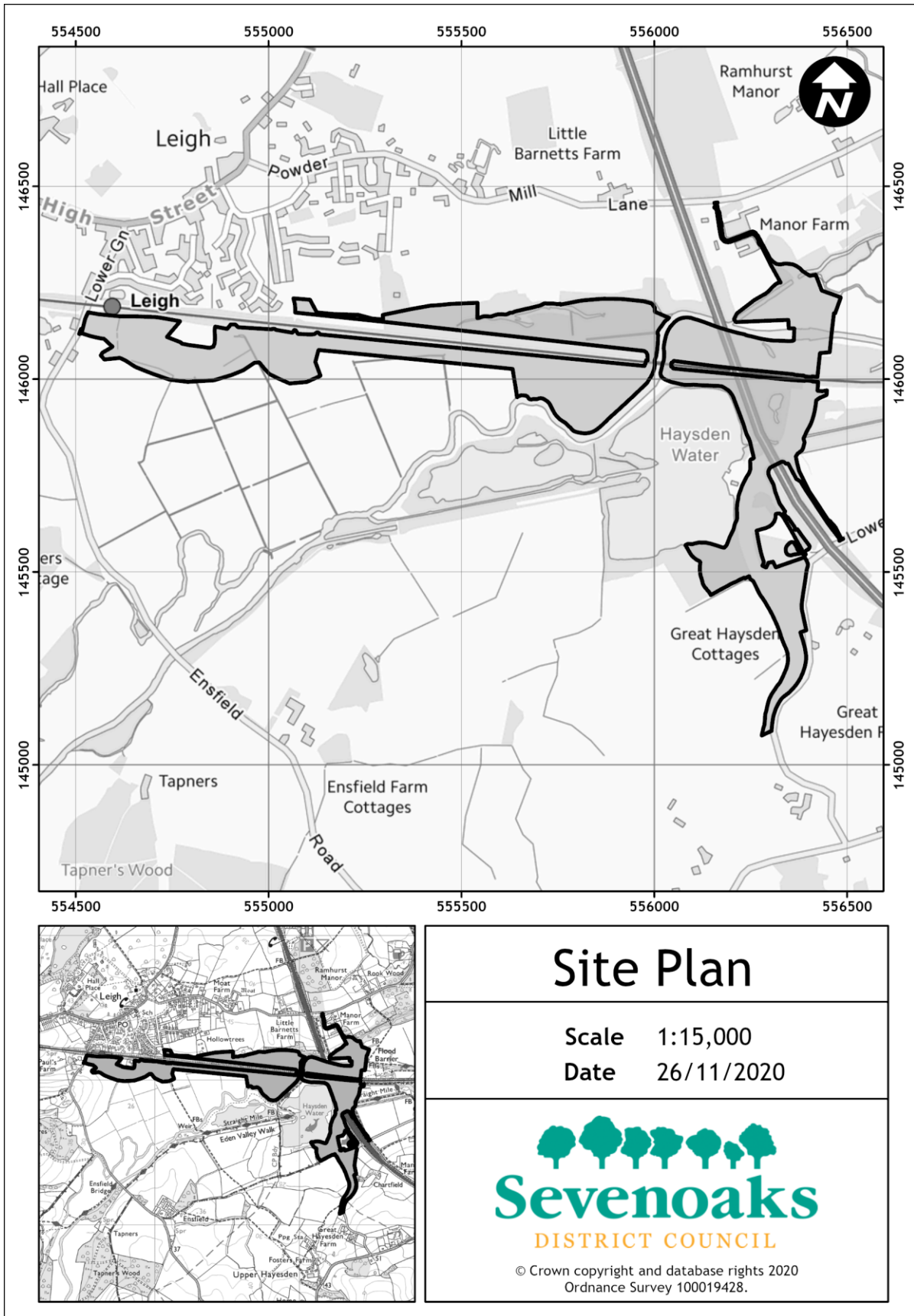
Contact Officer(s):

Sean Mitchell 01732 227000

Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



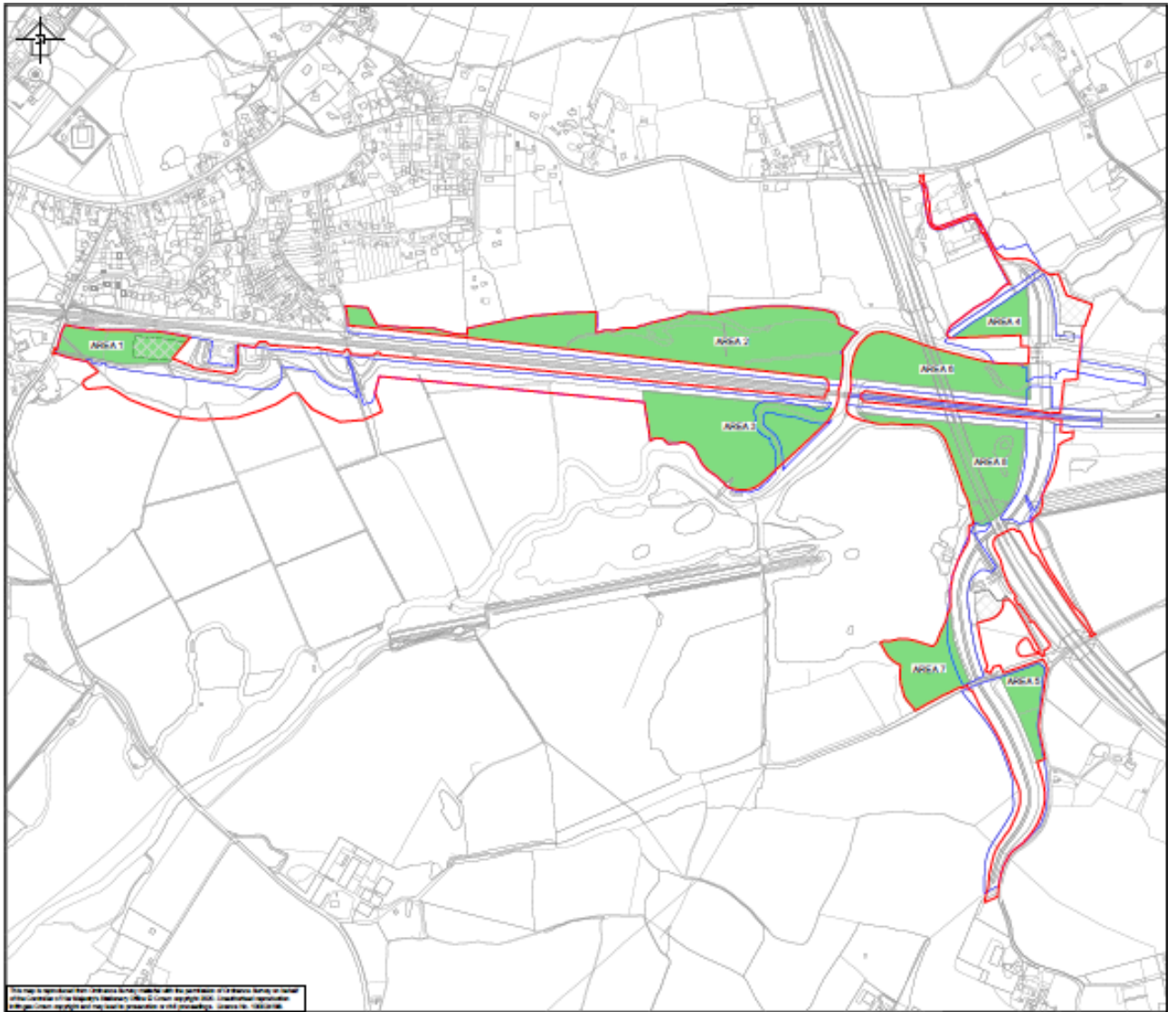
Site Plan

Scale 1:15,000
Date 26/11/2020



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Ordnance Survey 100019428.

BLOCK PLAN



4.2 20/02389/LDCEX Revised expiry date 22 December 2020

Proposal: Certificate of lawfulness for the use of the land for the storage of roll-on/ roll-off bins and skips and porta cabin for more than 10 years; and the erection of a building in excess of 4 years.

Location: Land North Of Hunters Retreat, Shoreham Lane, Halstead KENT TN14 7BY

Ward(s): Halstead, Knockholt & Badgers Mount

ITEM FOR DECISION

The application has been referred to the Development Control Committee by Councillor Grint for the committee to consider whether the evidence available justifies the grant of the Lawful Development Certificate.

RECOMMENDATION: That the Lawful Development Certificate be GRANTED for the following reason:

Evidence has been submitted which demonstrates, on the balance of probabilities, that the land has been used continuously for the storage of roll on/roll off bins and skips, and porta cabin for more than 10 years, and a building has been erected on site in excess of 4 years ago. As such, the use of the site for the storage of roll on/roll off bins and skips and porta cabin and the erection of the building, is immune from enforcement action and lawful, in accordance with Section 191 of the Town and Country Planning Act 1990 (as amended).

Description of site

- 1 The application site is located to the west of the large roundabout at Badgers Mount at the junction of London Road, Old London Road, Shacklands Road and Shoreham Lane, behind a property known as Hunters Retreat. It consists of approximately 0.54 hectares, is reasonably flat, and has vehicular access to Old London Road.
- 2 The site lies within the Metropolitan Green Belt, but not within an area of Outstanding Natural Beauty, which lies further to the east.

Description of proposal

- 3 The Lawful Development Certificate application for an existing use, claims that the land has been used continuously for the storage of roll on/roll off bins and skips and porta cabin for more than 10 years, and the erection of a building in excess of 4 years.

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Relevant planning history

- 4 00/01022/OUT - Proposed clearance of all stone, rubble, fencing and structures within existing site boundary. Erecting a detached house and double garage and on remainder a single stable and feed store with the land used for grazing one horse. 14.07.2000 REFUSED
- 5 99/01691/OUT - Proposed clearance of all rubble, fencing and structures within site boundary and erection of detached house and double garage. 12.11.1999 REFUSED.
- 6 09/02413/FUL - Use of land for commercial horticultural nursery including retail sales to the public, erection of polytunnels and storage building with associated car parking. WITHDRAWN

Policies and legislation

- 7 Town and Country Planning Act 1990 (as amended)
- 8 National Planning Policy Guidance

Constraints

- 9 The following constraints apply:
 - Metropolitan Green Belt

Initial Consultation

Consultations

- 10 Halstead Parish Council
- 11 Object to this application and have made the following comments;
- 12 'Halstead Parish Council strongly object to this application.
- 13 We are aware that this site has a history of unauthorised use going back to a waste transfer station.
- 14 AONB & Green Belt
- 15 The site faces the AONB and is situated within the Green Belt which should be protected from such a development. Having seen how the skips are stored further along the road at Oak Tree Farm, we believe that allowing the site to become a lawful place of storage for roll on roll off bins and skips would materially harm the openness of the Green Belt through excessive scale, bulk or visual intrusion and is therefore not appropriate in the green belt as laid out by section 145 of the NPPF.
- 16 Under Policy GB07 it is quite clear that the building to be redeveloped on a Green Belt site needs to have at least 75% of its original structure maintained. The porta cabin on site looks to this council to be dangerous

and falling down -the design and access statement from planning application 09/02413/FUL attests to this. It would need substantial rebuilding to make it suitable for re-use.

17 Use of Land

18 This council do not believe that the land has been used in the manner which the affidavits state for the length of time given. We have seen proof from residents that we believe would test the accuracy of these statements including complaints made to Sevenoaks Planning department. We attach several screenshots from Google Street View which show what we would deem to be a very unused driveway from 2008.

19 The site is surrounded by 8 neighbouring properties. Neighbours have said that the site has been very quiet until the past year and activity has been escalating since the introduction of the entrance gate (which you can see from our street view photos is after May 2019). The noise and nuisance smells, dust and debris including obnoxious fires are already causing disturbance. An application to make this site lawful for storage which inevitably see an increase in the types of activity. Residents have shown the council proof of ongoing activities that go above and beyond the storage of bins. They talk of disruption caused by the work on their lives and destruction of their personal property and that of the Green Belt.

20 We have attached a video taken on 2nd September 2020 by a resident which clearly shows waste sorting taking place (link not attached). We attached photos of the site from across the last 30 years. We can see in these photos the previous use of this site and how utterly devastating it is for the Green Belt land and the residents who live nearby. We believe that approval of this application would allow for this situation to occur again.

21 Recently, rubble and rubbish including asbestos has been thrown from the site (fly tipping) to the verge which would further prove that waste is being sorted on this land.

22 Highways

23 The entrance to the site is situated close to a busy roundabout. The increase of large lorries coming in and out of the site in such close proximity to the roundabout would be dangerous for all road users. We already suffer with mud and debris on the road from the site next to the Station and the site at Oak Tree Farm which are owned by the same company.

24 Adding a further storage area for these skips would only increase this mess. The owners have fenced off a section of the verge which belongs to Kent Highways. The application suggests that they are in discussion with Kent Highways over the purchase of that section of land and yet have provided no proof of this and this fence should be removed immediately. HPC do not feel that permission for anything on this site should be granted until clarification of ownership of this section has been established'.

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- 25 Badgers Mount Parish Council
- 26 Object to this application and have made the following comment;
- 27 'Badgers Mount Parish Council has been consulted as the adjoining Parish and objects strongly to this application.
- 28 Green Belt
- 29 The site is in the Green Belt and the recent commencement of the current use is inappropriate development within the Green Belt. The storage of bins and skips in such large numbers causes considerable harm to the openness of the Green Belt.
- 30 Land use
- 31 The current use of the site has commenced within the past year contrary to the various affidavits included in the application which state that this use has been going on for many years. Until recently most of the site was covered with overgrown scrub bushes and trees and it has effectively been derelict for the majority of the last 20 years, which various nearby residents could attest to. The present use is causing considerable noise, dust and smell nuisance to neighbouring residents.
- 32 Access
- 33 The access to the site is close to the roundabout and there have been many occasions when skip lorries have been seen blocking part of the carriageway making the area increasingly dangerous. If the use is allowed to continue, there will undoubtedly be a considerable increase in mud and debris being carried onto Old London Road in a similar way to the Oak Tree Farm site, which is owned by the same company, approximately half a mile south of this site'.

Representations

- 34 The Council received 17 letters not supporting the applicants claim. These are discussed further below and relate to the following issues:
- Level of activity
 - Inaccuracy of evidence supplied by applicant
 - Noise
 - Dust
 - Odour
 - Exposure to hazardous substances
 - Ground contamination
 - Traffic and road hazards
 - Site intensification
 - Untidy/debris across road
 - Impact on Green Belt
 - Asbestos Contamination
 - Fire Hazard
 - Impact on residential amenity

Chief Planning Officer's appraisal

- 35 Issues to consider for applications for a Lawful Development Certificate
- 36 The Government's Planning Practice states that when considering an application for a lawful development certificate: "A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process."
- 37 This type of application is simply considering whether the development concerned is or would have been lawful.
- 38 This application is submitted under s191 of the Town and Country Planning Act 1990. Section 191 (2) states that:
- 39 For the purposes of this Act uses and operations are lawful at any time if—
- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
- 40 The time limits for taking enforcement action are set out in s171B of the Town and Country Planning Act 1990 and the National Planning Practice Guidance summarises this as follows:
- 41 Development becomes immune from enforcement if no action is taken:
- Within four years of substantial completion for a breach of planning control consisting of operational development;
 - Within four years for an unauthorised change of use to a single dwellinghouse;
 - Within ten years for any other breach of planning control (essentially other changes of use). However, this would also relate to noncompliance with a condition.
- 42 When considering the degree of information to be submitted in support of such applications, the National Planning Practice Guide explains that;
- 'In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.'

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43 The guidance adds that;

‘A local planning authority may choose to issue a lawful development certificate for a different description from that applied for, as an alternative to refusing a certificate altogether. It is, however, advisable to seek the applicant’s agreement to any amendment before issuing the certificate. A refusal is not necessarily conclusive that something is not lawful, it may mean that to date insufficient evidence has been presented.’

44 To ensure that decisions are clear, precision in the terms of any certificate is vital. It is important to note that:

- A certificate for existing use must include a description of the use, operations or other matter for which it is granted regardless of whether the matters fall within a use class. But where it is within a “use class”, a certificate must also specify the relevant “class”. In all cases, the description needs to be more than simply a title or label, if future problems interpreting it are to be avoided. The certificate needs to therefore spell out the characteristics of the matter so as to define it unambiguously and with precision. This is particularly important for uses which do not fall within any “use class” (i.e. “sui generis” use); and
- Where a certificate is granted for one use on a “planning unit” which is in mixed or composite use, that situation may need to be carefully reflected in the certificate. Failure to do so may result in a loss of control over any subsequent intensification of the certificated use.

45 Analysis of the Evidence

46 This section of the report sets out the analysis of the evidence submitted, and all the other evidence submitted or available to the Council.

47 For the purposes of this application, the applicant needs to provide evidence that supports the;

- Continued use of the land for the storage of roll on/roll off bins and skips, and porta cabin for the last 10 years; and
- The building was erected in excess of 4 years ago.

48 For clarification, this porta cabin does not constitute a ‘building’ due to its lack of permanence and therefore would not amount to development. Therefore, whether the porta cabin is lawful lies within the consideration of the use of land.

49 The analysis concludes that despite a minor discrepancy in the evidence, on the balance of probability, that the land has been used to store roll on /roll off bins and skip, and porta cabin for a period in excess of 10 years, and a building was erected on the site in excess of 4 years. As such, it is immune from enforcement action and has become the established lawful use.

50 After this section, a full summary of the evidence referred to is set out for reference.

- 51 The applicant, Mr David Barker, has submitted a Statutory Declaration (SD1). This declaration sets out the background of the site at the time of purchase in 2004 and that the site has been used as an overspill to the waste transfer business with the applicant. The site was used for:
- Storing bins and some skips when there is a need for overflow accommodation.
 - The building on the site was repaired between 10 - 12 years ago and is used for secure storage purpose.
 - 10-20 storage bins and 30 skips were on site at any one time. Varies throughout the year.
 - The porta cabin was inherited from the previous owner and this has remained in position ever since the acquisition of the site in 2004 (it is not used for any specific purpose but is stored on the site).
- 52 A further three Statutory Declarations (SD2-SD4) from three employees of BSP Knockholt Ltd all state that the site has been used for the storage of the roll on/roll off bins and skips for a period in excess of ten years.
- 53 As legal declarations, these statements (SD1 - SD4) can be given significant weight.
- 54 The Supplementary Planning Statement states that the applicant, through either The Borton Group, or Knockholt Properties, has been in control of the site since 2006. This is consistent with the evidence in exhibit SD6 - Land Registry documents. However, there is an inconsistency with the Statutory Declaration (SD1) made by the applicant, which states that he purchased the land together with a partner *'in or around 2004'*.
- 55 For the purposes of this application, the applicant only needs to provide evidence that supports the continued use of the land for the last ten years. The application was made valid 20 August 2020, so we are looking back to 20 August 2010. There is no evidence to suggest that the applicant did not own the land since this date. It is not considered that this inaccuracy discredits the Statutory Declaration made by the applicant (SD1).
- 56 Similarly, exhibits SD7 (aerial photo of the site in 2008), SD10 (Letter from Senior Investigation Officer at SDC dated 2009) and SD11 (Letter from KCC dated 2007) have very limited weight as they fall outside of this ten-year timeframe, albeit they provide useful background information. However, these exhibits can be afforded limited weight.
- 57 Exhibits SD5 and SD9 refer to a Call for Sites submission. The Supporting Planning Statement within exhibit SD5 dated 2017 states that the applicant has *"owned the site for approximately ten years and has used it quietly and discreetly for the storage of skips bins, and off road loaders and containers without any objection from local residents. The building on site has been renovated"*.

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- 58 The SDC Site Deliverability Assessment following the Call for Sites submission in 2017 (SD5) states the following;
- That the existing use that may be lost as '*Scrubland and remains of old buildings*'.
 - The site is recognised as Brownfield.
 - Badgers Mount Parish Council commented '*We support the proposal which would be an improvement from the exiting overgrown area with an assortment of containers etc...*'
- 59 Exhibit SD8 shows aerial photograph of the site in 2012 and clearly demonstrates the porta cabin, building and a number of skips and bins on site. The site is not overgrown, with worn areas where there is little to no grass indicating vehicle movement and that the site is in use at that time.
- 60 The exhibits SD5, SD8, and SD9 referred to above, are consistent with each other and with the statements made within the Statutory Declarations, and as such can be afforded moderate weight.
- 61 The aerial photography available to Council supports the applicants claim, and clearly indicates the site has been use for the storage for roll on/roll off bins and skips, and porta cabin for a period in excess of 10 years, and the erection of a building in excess of 4 years, and as such can be given substantial weight.
- 62 The enforcement case files from 2011, 2015 and 2018 would also suggest that the site has been active.
- 63 A visit to the site by the Case Officer on the 3 September 2020 confirmed the presence of a high number of roll on/roll off bins and skips, the porta cabin, and the building.
- 64 Councillor Grint states that the site has the appearance of being derelict and abandoned.
- 65 In planning law, this case is not strictly one of abandonment. The test is whether there has been a new use established through a continuous use and whether at any point the Council could have taken enforcement action.
- 66 If at any time during the relevant period (the last ten years), the Council would not have been able to take enforcement proceedings in respect of the breach, for example, because no breach was taking place, then any such period cannot count towards the rolling period of years which gives rise to the immunity.
- 67 The site is visible from the public realm, the site has not been concealed and is accessible, and activities at the site were investigated in 2011, 2015, and 2018 by the Council for un-regularised use pertaining to the storage of waste and steel containers. There were occasions when enforcement officers visited the site and saw no activity and considered the breach rectified. This conclusion was reached in good faith based on the

information available at that time. The evidence now indicates that these occasions, particularly the last two were brief gaps in accessing the land and did not amount to a gap in the claim for a continuous use.

- 68 Whilst ‘storage’ by nature does not need to be accessed daily, the items being stored should remain on the site throughout the period. The evidence before the Council, by way of the Statutory Declarations and the aerial photographs, would suggest that the roll on/roll off bins and skips were on site at all times throughout the last ten years, suggesting that the site has been in a continuous use. The aerial photographs also show the building and porta cabin in situ too.
- 69 The Council received 17 letters from local residents not supporting the applicants claim.
- 70 There is no evidence within those letters that disputes that roll on/roll off bins, skips and containers, and porta cabin have been on the site for the last 10 years, nor the building for the last 4 years. The letters do not provide any substantial evidence to dispute the applicant’s claims in this regard, indeed many in fact support this claim by providing personal accounts witnessing the bins, skips, containers, porta cabin and building sited historically on the site.
- 71 There are claims within these letters that the level of activity has not been as described within the Statutory Declarations provided in SD1 - SD4, however, no evidence has been brought forward to support these claims, nor sworn declarations made by those opposing. Regardless of this, the level of activity is not a matter of consideration as the application merely relates to the use of the land for the ‘storage’ of roll on/roll of bins, skips and containers, and porta cabin, and erection of the building.
- 72 A few of the letters refer to an application made in 2009 (SE/09/02413/FUL) in which the agent at the time, Mr David Bass of the Borton Group Ltd referred to the site as being ‘*effectively vacant and has nil use*’. Several of the objection letters received claim that this discredits other evidence submitted by the applicant. However, this would have been based on the information available at the time to the agent.
- 73 This statement by Borton Group Ltd for the 2009 application, would not affect the ten-year period, being outside the relevant timeframe. The evidence that the letters refer to is contained in Statutory Declarations.
- 74 Some uses, such as a storage use, will, by the very nature of the use have fluctuations in activity, where items being stored would come and go from a site. There can also be changes in the intensity of the use over time. These uses could still be capable of being continuous and be lawful, if that use overall has not ceased.
- 75 An analysis of the evidence shows that there are minor discrepancies in the applicant’s evidence when compared to all the other evidence available. When looking at all the evidence as a whole, those discrepancies do not undermine the credibility of the applicant’s evidence. There is evidence to

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indicate that the use of the land and the erection of the building are likely, on the balance of probability, to be lawful and this evidence is compelling.

76 A summary of the evidence.

77 Applicant's evidence:

78 The application seeks confirmation that the land has been used for the storage of roll on/roll off bins and skips, and the porta cabin for a period in excess of 10 years, and the erection of the building in excess of 4 years. The information submitted for this application correctly identifies the relevant test in this case.

79 Summary of evidence submitted by the applicant in support of the application

Evidence Source	Evidence
Statutory Declaration signed by the applicant; David Barker (Ref SD1)	States the following: <ul style="list-style-type: none"> • Purchased the site around 2004 • Uses the site as an overspill to the waste transfer business, BSP (Knockholt) Ltd located at Knockholt Stations Goods Yard; storing bins and some skips when there is a need for overflow accommodation. • Purchased larger site at Oak Tree Farm, Halstead as the business is expanding. • The building on the site was repaired between 10 - 12 years ago and is used for secure storage purposes. • Between 10 -20 storage bins and 30 skips at any one time on site but varies throughout the year. • Porta cabin was inherited from the previous owner and this has remained in position ever since his acquisition of the site in 2004. It is not used for any specific purpose but is stored on the site.
Statutory Declaration signed by Anthony Johnson (Ref SD2)	States the following: <ul style="list-style-type: none"> • Worked for BSP Knockholt Ltd for approx. 18 years. • Employed as a driver delivering bins and skips to a variety of sites in the South.

	<ul style="list-style-type: none"> • Visits the site to collect or deposit a bin at least 3 - 4 times a day on a daily basis for last 15 years. • Confirms the site has been used continuously for that length of time for the storage of the larger bins, and on a seasonal basis; the small skips.
<p>Statutory Declaration of Martyn Knight (Ref SD3)</p>	<p>States the following:</p> <ul style="list-style-type: none"> • Worked for BSP Knockholt Ltd for approx. 16 years. • Confirms David Barker has owned the site for at least 15 years. • Has visited that site regularly each week. • That the site is used for storage of roll on roll off bins and 40 yarders. • Has collected bins from the site many times each week continuously for at least the last 15 years. • Usually between 15 and 20 bins at the site on a daily basis depending on how busy the company is.
<p>Statutory Declaration of Daniel Burgess (Ref SD4)</p>	<p>States the following:</p> <ul style="list-style-type: none"> • Worked for BSP Knockholt Ltd for approx. 17 years • Oversees the daily duties of the company. • Sends lorries to the site on a daily basis to either collect bins or deliver empty bins or storage until they are needed.

80 Summary of evidence submitted by the applicant in the form of the Supplementary Planning Statement in support of the application:

Evidence Source	Evidence
<p>Supplementary Planning Statement Ref SD/17/05 dated 18 August 2020</p>	<p>States the following:</p> <ul style="list-style-type: none"> • The use has continued for more than 10 years.

	<p>11 appendices have been submitted to support this claim. SD1 - SD4 are the Statutory Declarations previously listed.</p> <p>SD5 - SDC Call for Sites submission from 2015 together with the Supporting Planning Report of D.P.P dated 01.03.2017.</p> <p>The SDC Call for Sites submission form has the use of the site as 'Nil' use but refers to the Supporting Planning Report, that states under Section 2.0:</p> <p>'My client has owned the site for approximately ten years, and has used it quietly and discreetly for the storage of skips bins, and off road loaders and containers without any objection from local residents. The building on site has been renovated. This at present does not have a Lawful Development Certificate, but investigations into the use are ongoing and an application will be forthcoming'.</p> <p>SD6 - Land Registry documents for Title K443028 and K321157. Applicant states that the site came into the joint ownership of the Borton Group in 2006, of which the applicant was a joint owner. In 2013 the land was transferred to Knockholt Properties Ltd (of which David Barker has an interest) and Michael Cutting.</p> <p>SD7 - Aerial photograph from GetMapping.com dated 20.09.2008. Shows the porta cabin, building and a number of skips and bins on site. The vehicular access is also well established.</p> <p>SD8 - Aerial photograph from GetMapping.com dated 25.05.2012. Shows the porta cabin, building now enclosed and a number of skips and bins on site. The site is now less overgrown, with more worn areas where there is little to no grass.</p> <p>SD9 - SDC Site Deliverability Assessment following the Call for Sites submission in 2015 (under SD5).</p> <p>The Assessment states the following;</p> <ul style="list-style-type: none">• That the existing use that may be lost as '<i>Scrubland and remains of old buildings</i>'.• The site is recognised as Brownfield.• Badgers Mount Parish Council commented '<i>We support the proposal which would be an</i>
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	<p><i>improvement from the exiting overgrown area with an assortment of containers etc...'</i></p> <p>SD10 - Letter from Nicola Clinch, Senior Investigations Officer at SDC, dated 17 August 2009. Applicant states it is not directly relevant to the use of the site, but shows a knowledge of the site with a file reference 310/74/025.</p> <p>SD11 - Letter from KCC to the applicant dated 5 September 2007. The applicant states this letter shows the Borton Group to be active in the area.</p> <p>The SPS also included the following timeline;</p> <ul style="list-style-type: none"> • February 2006 - Borton Group Ltd are registered as owners of the site (SD6) • 2006 - Sworn declarations of David Barker and others confirm use (Sd1 - SD4 inclusive) • August 2009 Nicola Clinch of SDC aware of site (SD10) • September 2009 - Aerial photograph confirms use (SD7) • May 2012 - Aerial photograph confirms use (SD8) • 2015 - 2017 - SDC Call for Sites (SD5 and SD9) • 020 - Steve Whitehead of SDC investigates.
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81 Summary of Evidence held by Council

Evidence Source	Evidence
Sevenoaks District Council Aerial Mapping	<p>1999 - Site predominately clear of grass and vegetation with mostly bare earth showing. Porta cabin to north east of the site, building to the centre and a number of bin/skips present on site especially to the northern half. Vehicular access to the site well established.</p> <p>2001 - 2003 - Southern half of the site been allowed to revegetate. Porta cabin and building still present. Significantly more bins/skips on site, mostly located in</p>

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	<p>close proximity to the building at the centre/west of the site.</p> <p>2008 - Vegetation re-established to the site boundaries, but centre of the site void of any, with bare earth present perhaps suggesting increase in activity/movements on site. Porta cabin remains in situ, and the building has undergone some external works by way of increase in roof covering. Fewer bins/skips on site, but several still remain clearly visible. Vehicle access still in use, and gates erected.</p> <p>2012 - Site mostly revegetated except for access and area around the building and porta cabin. Roof covering over building reduced. Several bins/skips still visible.</p> <p>2015 - 2016 - Site been allowed to revegetate further with the presence of mature grasses/trees especially to the site boundaries and south of the site. Porta cabin remains in situ, and there are more bins/skips to the west of the porta cabin, and to the south west of the building.</p> <p>2018 - 2019 - Site densely overgrown with vegetation and trees. Porta cabin and building remain in situ and several bins/skips visibly beneath the vegetation to the north east and south east of the building.</p>
<p>Google Earth GIS</p>	<p>26.09.2018 - Decrease in vegetation to the centre of the site with an increased number of bins/skips on site, particularly to the western boundary, north of the site and far south. Porta cabin and building remain in situ. More defined movement paths clear of vegetation visible.</p>
<p>Enforcement Investigation File ref 11/00274/UNSITE</p>	<p>Complaint received by local resident in regards to a skip at the entrance to the site being used for fly-tipping and untidy site.</p> <p>File note by Senior Investigation Officer dated 04.04.2011 following a site visit confirms that the site is occupied by BSP Knockholt Ltd. Skip was removed and case closed.</p>
<p>Enforcement Investigation File ref 15/00571/OPDEV</p>	<p>Complaint received by local resident in regards to the following;</p> <p><i>'The land fronting Old London Road and close to the Badgers Mount roundabout and that adjoins the residential properties to the north that includes the</i></p>

	<p><i>Oast House, is being used for the storage of big steel containers’.</i></p> <p>Site visit dated 16.07.2015 claims that there were a number of skips behind the gate all filled with rubbish. Letter sent to the owner to remove.</p> <p>Site visit 14.10.2015 enforcement officer notes bins have been removed.</p> <p>Internal discussion with enforcement case officers concluded that the containers had been removed, breach ceased, and file closed 10.02.2016</p>
<p>Enforcement Investigation File ref 18/00417/MCU</p>	<p>Complaint received by local resident dated 09.10.2018 in regards to; <i>‘very large containers being moved about by heavy machinery on land to the rear of the property’.</i></p> <p>File note from Investigation Officer closing case on 21.10.2019. Reason for recommendation; ‘Nothing on site’.</p>
<p>Case Officer Site Visit</p>	<p>A visit to the site by the Case Officer on the 3 September 2020 confirmed the presence of a high number of roll on/roll off bins and skips, and the building and porta cabin.</p>

82 Other evidence

83 The local Ward Member, Councillor Grint has also commented on this application. In summary he comments:

- Disputes the site owner’s declaration that the site has been used for storage for 10 years; it has not.
- For most of the past 10 years, until very recently, the site has given every appearance of being derelict and abandoned: completely overgrown with plants, bushes and undergrowth to a height of around 2 metres.
- No movements of "stored items" on to or off from the site.
- The fact that one or two containers and/or skips may have been on the site throughout this period is not evidence of the site being used for storage, but rather of the site having become abandoned and derelict.

84 The Council received 17 letters not supporting the applicants claim. Relevant claims have been summarised thematically below.

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85 Disingenuous accounts of the historic site usage and level of activity

- The Planning Statement prepared by Stephen Downs quotes from a report prepared by Mr Downes in March 2017 to the effect that the owner had only used the site 'quietly and discreetly' therefore not four or five times daily consistently for fifteen years. This debases the sworn declarations.
- The same public record (09/02413/FUL) states that the site is 'effectively vacant and has nil use' despite statements to the contrary.
- The Planning Statement for this application also states that the building on site was 'refurbished at least 12 years ago' where as the documents for 09/02413/FUL state that the building was 'semi-derelect' 11 years ago.
- Three of the four sworn declarations can carry no weight and should be disregarded.
- The application is hence solely predicated on the recall of the owner himself whereas the neighbourhood responses testify to a very different historical site usage than set forth in his declaration.

86 Personal accounts of the site

- Some 4 to 5 years ago my elderly neighbour's dog escaped through a hole in the fence at the rear of her garden onto the site. I climbed over the fence and happily found the dog by the building which I would describe at that time as empty, dilapidated and open one side to the elements.
- I have described the site as very quiet indeed with no observable comings or goings.
- I do not refute that there were a number of roll on, roll off large bins stored on the site and in the intervening years I think that statement paragraph 5 of point 3 of the Planning Statement for CLUED which states that the owner 'has used the site quietly and discreetly for the storage of skips bins and roll on, roll off loaders and containers' to be reasonably accurate.
- I would stress that very few skips have been stored and these have been within the bins.
- Coming and goings have been few and far between despite the time of the year often with months rather than weeks between movements. In the main the bins have been stored empty and processing, sorting or similar activity has not been undertaken on the site.
- Since moving into my property four years ago, the land in question has mostly been a derelict site containing skips and large metal containers.
- The testaments claim that there has been daily activity with one claiming that they have deposited bins 3 - 4 times a day for the last 15

years. I can testify that this level of activity has not been happening. For most of the 12 years I have lived here, it has just been a quiet eyesore, with the occasional day (may be once a month) where there has been noise implying work being carried out.

- Stephen Downes own report indeed confirms that back in 2017 it has been used quietly and discreetly for the storage or skips bins and off road loaders and containers. This agrees with my experience - a storage site which was quiet as there was very little activity.
- The recent increase in activity and the claims of the employees that the site has been use daily for many years is completely untrue, from my experience as a neighbour directly overlooking the site.
- I've lived here for 13 years and over that time there has been some activity, mainly around 6 - 7 years ago and then nothing until recently (maybe the last year) when there was a lot of noise coming from the site...The building and porta cabin on the land are both derelict.
- The application is for existing use yet for at least the last four years since being resident on our property on Old London Road, we have not observed any use of the site which appeared to be unused, overgrown and derelict and not being used actively, certainly not for skips containing waste. We have observed several empty skips on the site remaining there but until this year have not observed waste being taken and stored at the site. In our view the use has not therefore continued for more than 10 years.

87 Conclusion

88 The relevant test in the determination of this application is whether, on the balance of probability, the evidence available supports the applicants claim that the roll on/roll off bins and skips, and porta cabin, have been on site for a period of 10 years or more, and the erection of the building was in excess of 4 years ago.

89 The Local Planning Authority has no substantive evidence to contradict that produced by the applicant. The evidence submitted by the applicant, particularly the Statutory Declarations, supports the contention that the site has been used in the manner as described, and the building has been on site for that period of time.

90 In light of the evidence available and Government Guidance, it is concluded, on the balance of probability, that the land has been used to store roll on /roll off bins and skip, and porta cabin for a period in excess of 10 years, and a building was erected on the site in excess of 4 years. As such, it is immune from enforcement action and has become the established lawful use.

91 It is therefore recommended that this application is GRANTED.

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Background papers

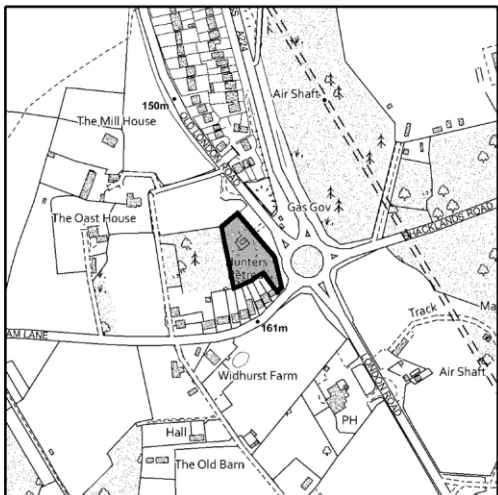
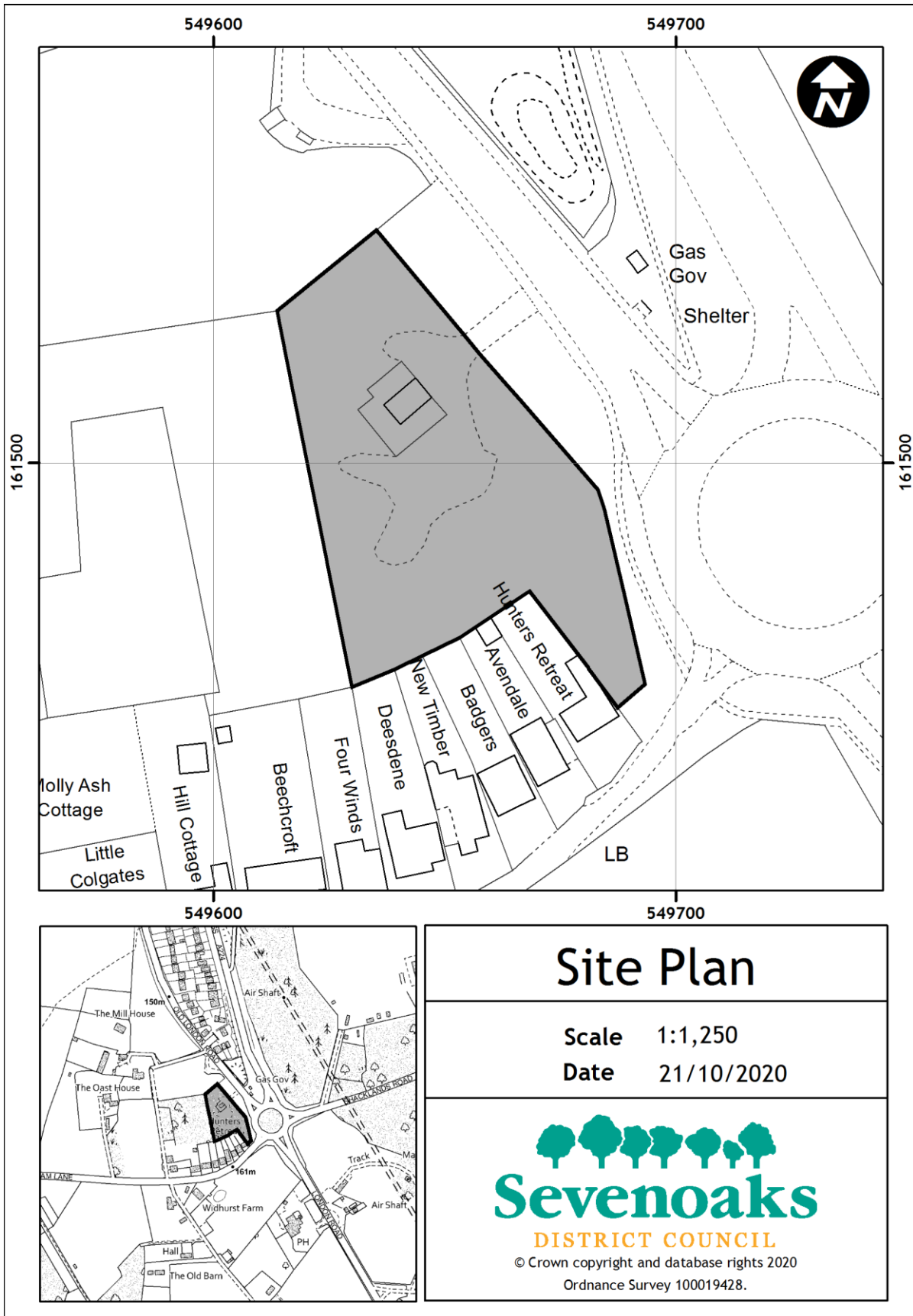
Site and block plan

Contact Officer(s): Charlotte van den Wydeven: 01732 227000

Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



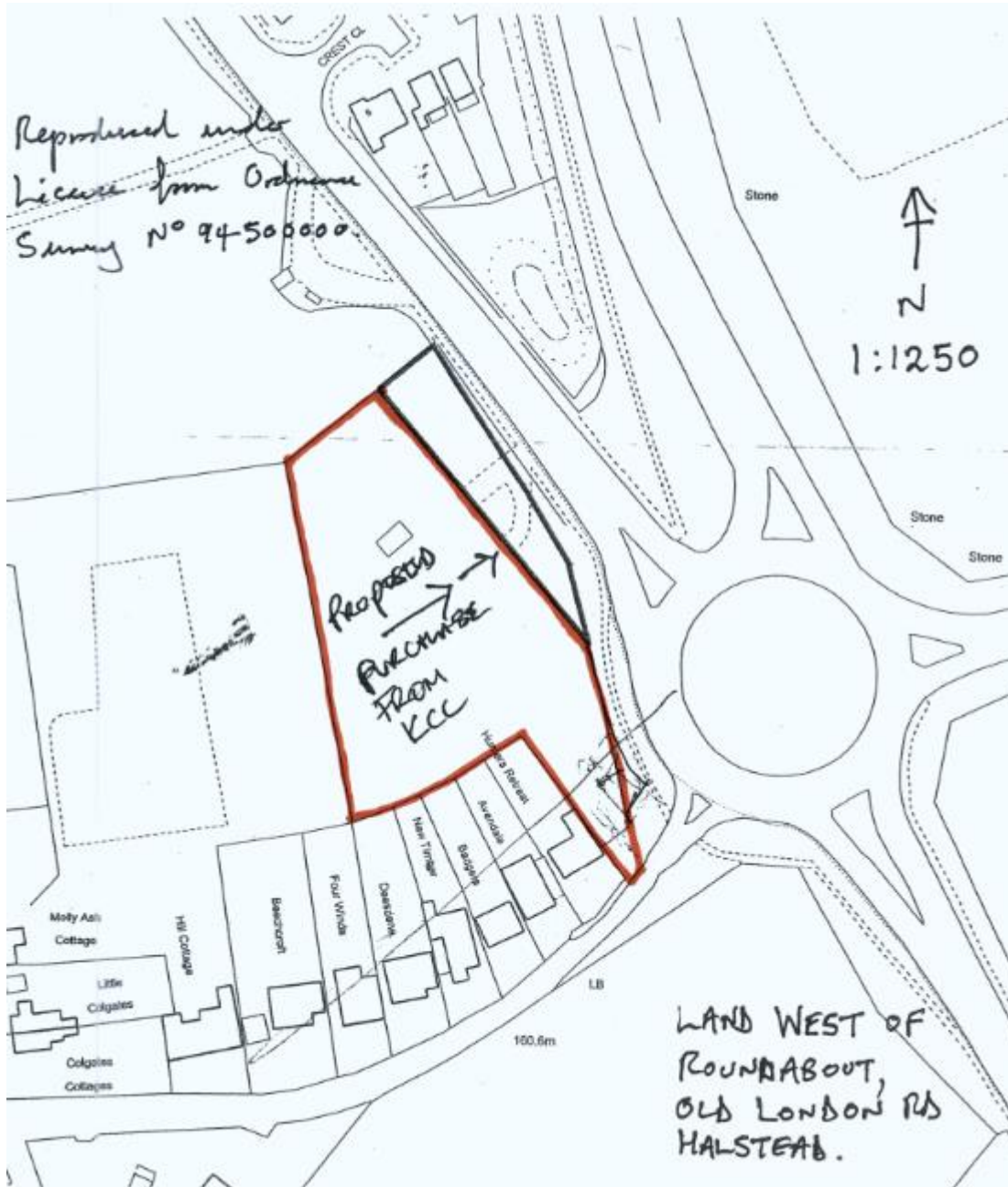
Site Plan

Scale 1:1,250

Date 21/10/2020



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Ordnance Survey 100019428.



4.3 20/02646/MMA Date expired 18 November 2020

Proposal: Minor material amendment to 19/00116/FUL.

Location: 95 Dartford Road, Sevenoaks, KENT TN13 3TF

Ward(s): Sevenoaks Town & St Johns

Item for decision

This application has been called to committee by Councillor Fleming on the grounds that the change is significant, not in keeping with the main roofline and has a harmful impact on the character of the area.

RECOMMENDATION: That planning permission be GRANTED subject to the following conditions:

1) The development hereby permitted shall be begun before the expiration of the time limit imposed on planning permission 19/00116/FUL.

In pursuance of section 91 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 110 REV P1 Proposed Elevations, 001 Site Location Plan, P-150 REV P, P-200 REV P4, P-150 REV P5.

For the avoidance of doubt and in the interests of proper planning.

3) Notwithstanding the approved plans, the external materials for the new dwellings shall be constructed wholly in accordance with the approved application reference 20/02602/DETAIL.

To maintain the integrity and character of the area and Locally Listed Building as supported by EN1 and EN4 of the Sevenoaks Allocations and Development Management Plan.

4) Notwithstanding the approved plans, the hard and soft landscaping of the development hereby permitted shall be constructed wholly in accordance with the approved application reference 20/02648/DETAIL. The landscaping works shall be implemented prior to occupation of the dwellings and retained thereafter, unless otherwise agreed in writing by the local planning authority. If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

To protect the visual appearance of the area as supported by Policy EN1 of the ADMP.

5) The electric vehicle charging points for the development hereby approved shall be installed wholly in accordance with the approved application reference 20/02649/DETAIL. The charging point shall be installed in accordance with the approved details prior to first occupation of the development.

To ensure the sustainability of the site in accordance with policy T3 of the Allocations and Development Management Plan.

6) The construction works associated with the development hereby approved shall be carried out wholly in accordance with the Construction Management Plan approved under application reference 20/02355/DETAIL.

To ensure that the development does not prejudice the free flow of traffic and conditions of safety on the highway or cause inconvenience to other highway users in accordance with Policy T1 of the Sevenoaks Allocations and Development Management Plan.

7) Prior to the use of the site commencing provision and maintenance of 2 metres x 2 metres pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level shall be implemented and retained as such thereafter.

In the interests of pedestrian and highway safety.

8) The layout and construction of areas for the parking of cars and means of access shall be implemented wholly in accordance with the approved application reference 20/02416/DETAIL. The parking areas approved under application reference 20/02416/DETAIL shall be provided and kept available for parking in connection with the use hereby permitted at all times.

To ensure a permanent retention of vehicle parking for the property as supported by Policy EN1 and T2 of the Sevenoaks Allocations and Development Management Plan.

9) The boundary treatment to the north west boundary of the application site shall be implemented wholly in accordance with the approved application reference 20/02650/DETAIL. The boundary treatment shall be implemented and retained as such thereafter.

To protect the visual appearance of the area as supported by Policy EN1 of the ADMP.

10) The refuse and recycling storage facilities shall be implemented wholly in accordance with the approved application reference 20/02651/DETAIL and retained as such thereafter

To ensure satisfactory provision of refuse and recycling facilities and to safeguard residential amenity in accordance with policies EN1 and EN2 of the Sevenoaks Allocations and Development Management Plan.

Informatives

- 1) The proposed development is located within 15m of Thames Waters underground assets, as such the development could cause the assets to fail if appropriate measures are not taken. Please read Thames Water’s guide 'working near our assets' to ensure your workings are in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-largesite/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: developer.services@thameswater.co.uk Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB.

- 2) Any discharge to a public sewer, requires prior approval from Thames Water Developer Services. Should you require further information please refer to Thames Water’s website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewaterservices>.

- 3) The proposed development has been assessed and it is the Council's view that the CIL is payable. Full details will be set out in the CIL Liability Notice which will be issued with this decision or as soon as possible after the decision.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer’s report.

Description of site

- 1 The site is within an area of mixed character with Dartford Road to the south and St. Johns Hill to the north.

- 2 The area to the north and south predominantly consists of larger scale development of a greater height and mass with buildings in residential and commercial use. To the west is the smaller scale development of Bradbourne Road which consists of predominantly 2 storey residential properties. The site is located within the St John’s Road Residential Character Area. This area historically forms the beginning of Sevenoaks as a commuter town and comprises a Victorian dormitory suburb.

- 3 The existing building at 95 is a two-storey detached house built 'built before 1840 and thought to date back as far as 1750. The building is painted render under a hipped slate roof. There is a canopied entrance door on Dartford road with sash windows above. The Bradbourne Road frontage has three

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sash windows to each floor with margin glazing bars, small brackets under cills, shallow moulded window heads to ground floor windows. The windows appear to be later replacements.

- 4 The existing house is one of the oldest houses in this part of the road which has rarity value and retains original features. There is strong supporting evidence for a link with the former military barracks in Sevenoaks, hence the name Barrack Corner. The building is an example of a style of building unique to the local area. It adds significantly to the street scene and appearance of the area. The building is Locally Listed.
- 5 The two new dwellings would face Bradbourne Road. The Site is located within the St John's Road Residential Character Area. It is not within a designated Conservation Area but is adjacent to the Hartsland Conservation Area.

Description of proposal

- 6 The proposal is for a minor material amendment to the approved planning permission reference 19/00116/FUL. The amendment proposed seeks to alter the 'approved plans' referenced in condition 2 of 19/00116/FUL by way of substituting drawing P450 Rev P3 with a new drawing reference 110 P1.
- 7 The amended drawing proposes changes to the roof design of the recessed two storey side 'wings' of the approved dwellings to increase the proposed pitched roof on both dwellings at each side to include a tiled ridge roof in lieu of previously approved flat roof areas.
- 8 The proposed dwellings would still be set back from Bradbourne Road and would accommodate two three bedroom residential properties. Each property would benefit from its own pedestrian access from Bradbourne Road with private amenity space to the rear. Brick elevations are proposed with stone headers and cill surrounds. Timber sash windows are proposed and the roof would be finished in slate.
- 9 The parking and footprint of the dwellings would remain as previously approved under application reference 19/00116/FUL.

Relevant planning history

- 10 17/01267/FUL Demolition of existing dwelling and outbuildings and erection of six two bedroom dwellings, landscaping and associated parking. REFUSED 23/06/2017. APPEAL DISMISSED 09/05/2018.
- 11 19/00116/FUL Erection of a pair of semi-detached dwellings with parking and gardens and extending drop kerb. Demolition of outbuildings. GRANTED 07/06/2019.
- 12 20/02377/NMA Non-material amendment to 19/00116/FUL. REFUSED 15/09/2020
- 13 20/02416/DETAIL Details pursuant to 9 (Layout and construction of areas for the parking of cars and means of access) subject to 19/00116/FUL. GRANTED 12/10/2020

- 14 20/02355/DETAIL Details pursuant to 6 (Construction Management Plan) subject to 19/00116/FUL GRANTED 30/10/2020
- 15 20/02602/DETAIL Details pursuant to condition 3 (materials) of 19/00116/FUL. GRANTED 02/11/2020
- 16 20/02648/DETAIL Details pursuant to condition 4 (hard and soft landscaping) of 19/0116/FUL. GRANTED 09/11/2020.
- 17 20/02611/CONVAR Removal of condition 8 (tree protection measure) of 19/00116/FUL. GRANTED 13.11.2020
- 18 20/02649/DETAIL Details pursuant to condition 5 (electrical vehicle charging points) of 19/0116/FUL. GRANTED 06/11/2020.
- 19 20/02650/DETAIL Details pursuant to condition 10 (boundary treatment) of 19/0116/FUL. Pending consideration.
- 20 20/02651/DETAIL Details pursuant to condition 11 (refuse and recycling storage facilities) of 19/0116/FUL. Pending consideration.
- 21 20/02823/FUL Erection of a pair of semi-detached dwellings with associated parking and gardens and alterations to dropped kerb. Pending consideration.

Policies

- 22 National Planning Policy Framework (NPPF)
- 23 Para 11 of the NPPF confirms that there is a presumption in favour of sustainable development, and that development proposals that accord with an up-to-date development plan should be approved without delay.
- 24 Para 11 of the NPPF also states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:
 - the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
 - Footnote 6 (see reference above) relates to policies including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.
- 25 Core Strategy (CS):
 - L01 Distribution of Development
 - L02 Development in Sevenoaks Urban Area
 - SP1 Design of New Development and Conservation
 - SP2 Sustainable Development

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- SP5 Housing Size and Type
- SP7 Density of Housing Development

26 Allocations and Development Management Plan (ADMP):

- SC1 Presumption in Favour of Sustainable Development
- EN1 Design Principles
- EN2 Amenity Protection
- EN4 Heritage Assets
- T2 Vehicle Parking
- T3 Provision of Electrical Vehicle Charging Points

27 Other

- Sevenoaks Residential Character Area Supplementary Planning Guidance - St Johns Road Area
- Local List Supplementary Planning Document September 2017.

Constraints

28 The following constraints apply

- The built urban confines of Sevenoaks
- Sevenoaks Residential Character Area - St Johns Road Area
- Adjacent to Hartslands Conservation Area
- 95 Dartford Road is a Locally Listed Building

Consultations

19 Sevenoaks Town Council recommends refusal - increase in bulk is not in keeping with the street scene and causes a loss of amenity to the neighbouring locally listed building.

20 Kent County Council Transport and Highways:

” There are no highways implications associated with the proposals”.

21 Sevenoaks District Council Conservation Officer:

No objections.

22 Sevenoaks District Council Arboricultural & Landscape Officer:

No comments.

Representations

23 Two letters of objection have been received relating to the following issues:

- Adverse impact upon the street scene

- Loss of light and overshadowing
- Design and appearance not in keeping with Bradbourne Road
- Deprives the existing house at 95 both of a private garden of size appropriate to a 4-bedroom house and also of light and view
- Intrusive and results in overlooking.

Chief Planning Officer's appraisal

24 The main planning considerations are:

- Principle of development
- Impact on character and appearance
- Impact on setting of Locally Listed Building
- Impact on neighbouring amenity
- Parking and Highways impact
- Trees and landscaping
- Sustainable development
- Other issues
- Community Infrastructure Levy (CIL)

Principle of development

- 25 This report considers only the acceptability of the proposed change to condition 2 and the subsequent acceptability of the amended drawings. The Officer's Report for the original application (ref 19/00116/FUL) remains publically available and describes the reasons why the development was considered acceptable.
- 26 That report, and the extant planning permission, establish the acceptability of the principle of the development in this location.

Impact on character and appearance

- 27 The NPPF states at para 127 that planning policies and decisions should ensure developments function well and add to the overall quality of an area and optimise the potential of a site to accommodate and sustain an appropriate mix and amount of development. Policies SP1 of the Core Strategy and Policy EN1 of the Allocations and Development Management Plan (ADMP) indicates that "*all new development should be designed to a high quality and respond to the distinctive local character of the area in which it is situated.....*" and that '*the form of the proposed development ... should be compatible in terms of scale height, density and site coverage with other buildings in the locality. The design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard*'.
- 28 Policy EN1 of the ADMP requires high quality design and lists a number of criteria against which proposed development will be considered, including requiring the layout of proposed development to respect the topography and

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character of the site and the surrounding area and requirement for appropriate landscaping.

- 29 With regards to the design and appearance of the proposed dwellings, the elevations are detailed, with references to the local architectural character.
- 30 The site is located within the St Johns Road Residential Character Area. Appropriate landscaping and materials are proposed which reflect the existing character and appearance of the location. The proposed dwellings would not project forward of the existing building line of 95 Dartford Road and would be set back from the building line of the short terrace to the north west (1-5 Bradbourne Road). This siting allows the provision of a landscaped frontage and enables 1-5 Bradbourne Road to remain visible in views from Dartford Road.
- 31 The maximum height of the dwellings would not exceed those of the adjacent terrace along Bradbourne Road but would still sit above 95 Dartford Road by approximately 1.6 metres. This design provides an appropriate height transition between the existing built form of 95 Dartford Road and the properties located towards the north-west.
- 32 The previously approved planning permission included both dwellings incorporating a recessed two storey side 'wing'. This side 'wing' was designed with a shallow pitched roof sloping at a similar angle as the main house. The shallow pitch within the side 'wing' of both dwellings then sloped to form a flat roof area which was set below the main roof of the new dwellings. This amended proposal increases the pitched roof on both side 'wings' of each dwelling to include a tiled ridge roof in lieu of the previously approved flat roof areas. The amendments proposed here would still incorporate a hipped roof design and the two storey side 'wings' of each dwelling would still be significantly set back from the main front elevation of each dwelling. The changes to this part of the development would still ensure that each new dwelling appears subordinate to the main two storey core of the dwellings in terms of their height, width, mass and bulk.
- 33 The hipped roof design of the new dwellings is still maintained and the proposal still relates appropriately to 95 Dartford Road and the properties along Bradbourne Road. A two storey side 'wing' set back from the main front elevation is an element of design which is reflected in properties along Bradbourne Road and reinforces this locally distinctive feature.
- 34 The traditional appearance, pitched roofs, scale and form of the properties still continues to reflect other properties within the locality. The proposed dwellings are not considered harmful to the character or appearance of the area or street scene.
- 35 As such, the changes to the design of the new dwellings are acceptable and it would not be in conflict with, harmful or contrary to Policies EN1 of the ADMP or Policy SP1 of the Core Strategy.

- 36 For these reasons the proposed development will not detract from the character and appearance of the building or the surrounding area and complies with Policy EN1 of the ADMP, Core Strategy Policy SP1 and the Residential Character Area Assessment.

Impact on setting of Locally Listed Building.

- 37 Sevenoaks District contains many historic and modern buildings and structures, which, while not on the statutory list of buildings which are considered to meet strict criteria that afford them statutory protection, are of local architectural and historic interest or make a significant contribution to the character and appearance of our District.
- 38 The Adopted Local List is a Supplementary Planning Document (SPD) dated September 2017 which raises awareness and enhances protection of the many unlisted but interesting and locally notable historic assets which make up the historic environment of Sevenoaks District. The Local List does not require any additional planning permissions to be sought but buildings on the list have the status of heritage assets and their conservation is an objective of the National Planning Policy Framework (NPPF).
- 39 The National Planning Policy Framework (NPPF) provides the national policy context for plan making and decision taking. Paragraphs 184-202 in Section 16 of the NPPF are concerned with conserving and enhancing the historic environment and in particular the importance to be attached to the conservation and enhancement of heritage assets when considering development proposals.
- 40 At the District level, the Core Strategy development plan document adopted in February 2011 contains Strategic Policy SP1- Design of New Development and Conservation. Policy SP1 includes the paragraph:
- The District's heritage assets and their settings, including listed buildings, conservation areas, archaeological remains, ancient monuments, historic parks and gardens, historic buildings, landscape and outstanding views will be protected and enhanced.*
- 41 The Allocations and Development Management Plan (ADMP) adopted in February 2015 gives further definition to the conservation and enhancement of Heritage Assets. At paragraph 2.12 Locally Listed Buildings are specifically identified as representing a Heritage Asset.
- 42 The first part of Policy EN4 - Heritage Assets states:
- Proposals that affect a Heritage Asset, or its setting, will be permitted where the development conserves or enhances the character, appearance and setting of the asset.*
- 43 The inclusion of a building or structure on the list is therefore a material consideration the Council will take into account when considering planning applications. This means that when a planning application is made for a property on the Local List, or an application which will affect

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the setting of a locally listed building then any proposed alterations or extensions will be looked at with regard to the potential impact of any development on the heritage significance of that property, including its setting.

- 44 The implication of Policy EN4 - Heritage Assets in the ADMP is that planning permission or other relevant consents, when required, will not normally be granted for the demolition of a building identified on the Local List.
- 45 The previously approved development did retain the existing Locally Listed building at 95 Dartford Road and these amendments now proposed do not change this. The property at number 95 has now been sold separately and is under separate ownership and no longer forms part of this application site.
- 46 The existing outbuildings and the frontage wall are not explicitly referred to in the Local List and in accordance with the previously approved application the two storey outbuilding which fronts Bradbourne Road has been demolished and this was the case when the current applicants purchased the site.
- 47 The application site does not lie within a conservation area, but the Hartsland Conservation Area includes land on the opposite side of Dartford Road. Number 95 was included on the Local List on 20 April 2017. On the same day the Local List Supplementary Planning Document (SPD) was published.
- 48 In terms of the impact of the proposed dwellings on the setting of number 95, as before, the proposed dwellings would be located around 5.2 metres away from the existing flank wall of 95. The new dwellings would not project forward from the existing building line along Bradbourne Road and would be set behind the existing building at 95. The existing house at 95 Dartford Road is to be retained. No external alterations to this property are proposed. As such, the local architectural and historic significance of the property and its setting is not harmed. The retained property would still benefit from a garden area and a generous separation distance would still be retained between the side elevation of the property and that of the proposed new dwellings. The property at number 95 would not appear cramped in its setting and its identified significance would not be unduly harmed by the proposed amendments to the approved development.
- 49 With regards to the impact of the proposed alterations to the approved dwellings on the setting of the conservation area, the Hartsland Conservation Area is located further towards the east of number 95. By reason of the siting, height and design of the proposal, it would not interrupt any views into or out of it. The design of the dwellings is responsive to the character of Bradbourne Road. The scale, form and materials proposed are sympathetic to the local character and appearance of the area. The proposed dwellings reflect some of the distinguishing characteristics and features of the existing buildings in the area and are considered to relate appropriately to the prevailing pattern

and character of development in the area. Bradbourne Road is characterised by short terraces or pairs of period properties, the proposed dwellings would be subordinate to the scale and character of those properties located along Dartford Road.

- 50 Given the above, the proposed development would conserve the setting and character of the Locally Listed building at number 95 and the Hartsland Conservation Area and therefore the proposal would not conflict with Policy EN4 of the Allocations and Development Management Plan.
- 51 The Conservation Officer has reviewed the proposals and raised no objection.

Impact on neighbouring amenity

- 52 Policy EN2 of the ADMP requires development to provide adequate amenities for existing and future occupants and to safeguard outlook, privacy, light and visual amenities of neighbouring properties. Of relevance to this is the Supplementary Planning Document entitled Residential Extensions 2009. This provides design guidance on matters such as the need to preclude overlooking and loss of privacy to rear gardens
- 53 The proposed amendment would result in some additional bulk at roof level of the development only. The proposed development would still occupy the same footprint as that previously approved. The distances towards the boundaries of the site in terms of its built footprint would still be as previously approved. The only change to the development is the change to the side elevation of each dwelling. The two storey side 'wings' of the approved dwellings would now incorporate a pitched roof on both dwellings at each side to include a tiled ridge roof in lieu of previously approved flat roof areas. The maximum height of the dwellings would still be as previously approved at approximately 8.6 metres to a pitched roof. Both side 'wings' of the two dwellings would increase in height by approximately 1.6 metres to accommodate the change in design from a flat roof to a new pitched roof design.
- 54 The roof design for both dwellings would slope away from the neighbouring boundaries and an adequate distance from neighbouring properties is still maintained. The distance from the flank walls of the proposed dwellings towards the flank walls of the neighbouring properties is as previously approved.
- 55 Taking into consideration the above, these amendments would not cause any significant loss of sunlight or daylight, nor would they result in any visual intrusion.
- 56 No new windows are proposed and as such there are no additional impacts upon privacy.

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Parking and Highways Impact

- 57 Policy T2 of the ADMP state that vehicle parking provision in residential developments should be in accordance with the current KCC vehicle parking standards in Interim Guidance Note 3 to the Kent Design Guide.
- 58 No changes are currently proposed as part of this amendment to the previously approved car parking layout or access to the site and the proposals remain acceptable in terms of their parking and access, subject to the imposition of conditions as previously imposed.
- 59 The proposal would continue to provide 1 off street parking space for each of the proposed dwellings. No objections to the access and parking arrangements have been raised by KCC Highways.

Trees and Landscaping

- 60 The proposal only seeks changes to the roof design of the property. Previous details of hard and soft landscaping for the site have been agreed as part of the discharging of planning conditions for the 2019 application. A condition can be imposed on this application to ensure that the landscaping is carried out in accordance with the previously agreed details.

Community Infrastructure Levy (CIL)

- 61 This proposal is CIL liable and there is no application for an exemption.

Conclusion

- 62 The proposed changes to the permission are acceptable and compliant with the relevant development plan policies. The proposed amendments to the roof are not considered to harm the appearance of the surroundings, the setting of the Locally Listed building or have a detrimental impact on the amenity of the neighbouring properties. The proposal therefore accords with the relevant local and national policies.
- 63 It is recommended that condition 2 is varied to reflect the submitted minor material amendment application.

Background papers

110 REV P1 Proposed Elevations

001 Site Location Plan.

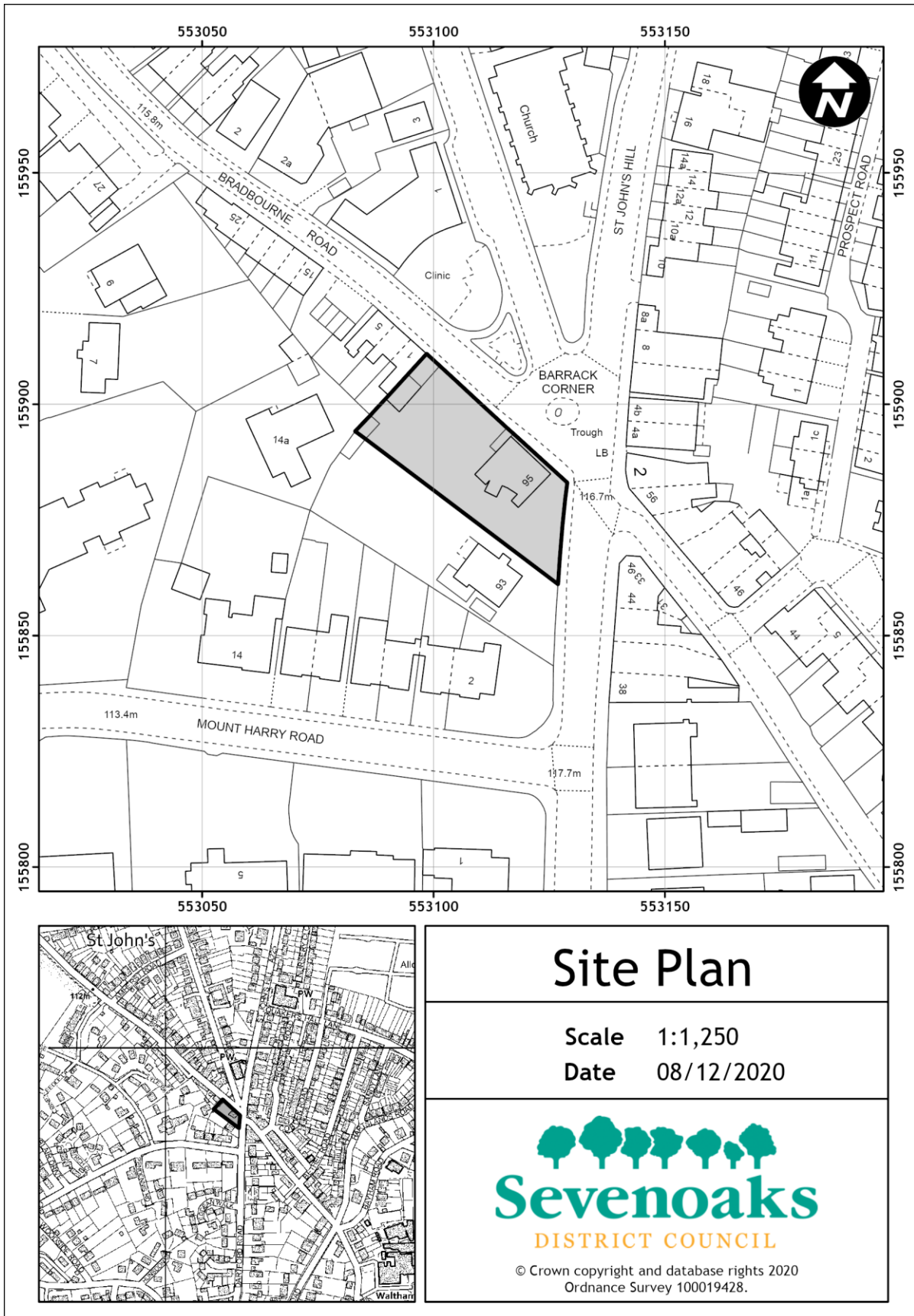
Contact Officer(s):

Mark Mirams 01732 227000

Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



Site Plan

Scale 1:1,250

Date 08/12/2020



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Ordnance Survey 100019428.



4.4 19/02474/FUL

Date expired 9 December 2019

Proposal: Conversion of redundant agricultural Buildings to form 9 new residential units. Demolition of outbuildings. Landscaping works with new access and access alterations.

Location: Claydene Farm, Hartfield Road, Cowden KENT TN8 7HF

Ward(s): Cowden & Hever

Item for decision

The application was discussed by the Development Control Committee on 13th February 2020 and the committee agreed the following resolution, to either:

- A) Grant planning permission subject to the conditions below and a legal agreement to secure the contribution to affordable housing for either: a) an onsite policy compliant provision, or b) a payment in lieu of affordable housing for the provision of affordable housing elsewhere, calculated in accordance with the Affordable Housing SPD 2011, or
- B) In the event that, using all reasonable endeavours, the legal agreement referred to in A) is not completed within 4 months, that the application be refused for failure to provide affordable housing.

A financial contribution of £450,000 has now been secured for affordable housing in the District. This report is therefore referred to Committee to consider whether planning permission can now be Granted.

RECOMMENDATION: That planning permission be GRANTED subject to the Section 106 agreement to secure the contribution to affordable housing, and subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

In pursuance of section 91 of the Town and Country Planning Act 1990.

- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement, improvement or other alteration permitted by Class A, B, D or E of Part 1 of Schedule 2 of the 2015 Order (as amended), or any enclosure other than those approved shall be permitted by Class A of Part 2 of the 2015 Order (as amended) shall be carried out or made to the dwellings and development hereby approved without the grant of a further planning permission by the local planning authority.

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To preserve the special landscape character of the AONB and to protect residential amenity, to comply with policies EN2 and EN5 of the ADMP.

3) No development shall take place until details of tree protection measures for all retained trees have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the approved protection measures retained throughout the course of the development.

To prevent damage to the retained trees during the construction period of the dwelling as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

4) Prior to bringing the development hereby approved into first use details of a scheme to show the provision of electric vehicle charging points, including the proposed location, type and specifications shall be submitted to and approved by the Local Planning Authority. The charging point shall be installed in accordance with the approved details prior to first occupation of the development.

To ensure the sustainability of the site in accordance with policy T3 of the Allocations and Development Management Plan.

5) Prior to the installation of glazing on the residential dwellings, full details of the type of glazing and mitigation measures to be installed to prevent light spillage should be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and once implemented the approved details shall thereafter be retained as approved.

In the interests of the dark skies of the Area of Outstanding Natural Beauty in accordance with policy EN5 of the Sevenoaks District Council Allocation and Development Management Plan.

6) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of; - a programme of building recording in accordance with a written specification and timetable, - a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The programme of building recording, written specification, timetable and watching brief shall be in accordance with a written programme and specification which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the aforementioned approved details.

To ensure that features of archaeological interest are properly examined and recorded in accordance with policy EN4 of the Sevenoaks District Council Allocation and Development Management Plan.

7) Prior to first occupation of the development hereby approved all demolition as indicated on plan 400 P 1 shall be undertaken and all resultant materials removed from the land.

To prevent inappropriate development in the Green Belt as supported by GB7 of the Sevenoaks Allocations and Development Management Plan.

8) No development shall be carried out on the land until details of the materials to be used in the cladding of the external surfaces of the converted barns hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved materials.

To ensure that the appearance of the development enhances the character and appearance of the High Weald Area of Outstanding Natural Beauty as supported by Policy EN5 of the Sevenoaks Allocations and Development Management Plan.

9) If the demolition of each of the buildings hereby approved does not commence within 2 years from the date of the submitted bat surveys (summer 2019) under application 19/02474/FUL, further ecological surveys shall be undertaken to: i) establish if there have been any changes in the presence and/or abundance of bats, and ii) identify any likely ecological impacts that might arise from any changes. Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, a Biodiversity Method Statement, detailing all necessary ecological mitigation/compensation measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of demolition. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable, unless varied by a European Protected Species licence subsequently issued by Natural England.

In the interest of protected species in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

10) No external lighting shall be installed within the red line site plan as illustrated on plan 100 P 2 or on any elevation of the approved dwellings without seeking approval in writing from the local planning authority. Prior to the use of the first building a "lighting design strategy for biodiversity" for the site will be submitted to and approved in writing by the local planning authority. The lighting strategy will: a) Identify those areas/features on site that are particularly sensitive; b) Show how and where external lighting will be installed in accordance with 'Guidance Note 8 Bats and Artificial Lighting' (Bat Conservation Trust and Institute of Lighting Professionals); All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall be maintained thereafter in accordance with the strategy. Such details shall include proposed location(s), height, type and direction of light sources. The development shall be carried out in accordance with any approved details and maintained thereafter.

In the interest of protected species in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

11) Within six months prior to the commencement of development, a walkover badger survey shall be carried out and the results along with any necessary mitigation measures will be submitted to and approved in writing by the Local Planning Authority. The measures will include: a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or

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by using planks placed into them at the end of each working day; and b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day. The measures shall be implemented in accordance with the approved details.

In the interest of protected species in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

12) No demolition works shall take place (including any ground works, site or vegetation clearance), until a method statement for the prevention of unnecessary suffering to foxes and rabbits has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the: a) Purpose and objectives for the proposed works; b) Working method, including timings, necessary to achieve stated objectives; c) Extent and location of proposed works shown on appropriate scale plans; d) Provision for species rescue; e) Persons responsible for implementing works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works. The works shall be carried out in accordance with the approved details

In the interest of mammals found on site in accordance with policy SP11 of the Sevenoaks District Council Core Strategy

13) Within six months prior to the commencement of development, a barn owl survey shall be carried out and the results along with any necessary mitigation measures will be submitted to and approved in writing by the Local Planning Authority. The measures will include: a) Provision for update surveys prior to commencement of development; b) Replacement temporary and permanent nesting provision for any lost as a result of the development works, with reference to The Barn Owl Trust guidance. The measures shall be implemented in accordance with the approved details.

In the interest of protected species in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

14) Prior to first occupation of the development hereby approved, details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with native species planting and the provision of hedgehog holes in boundary features. The approved details will be implemented and thereafter retained.

In the interest of the biodiversity of the area in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

15) Prior to the commencement of the development details of the works to all hedges within the red line boundary shall be submitted to the Local Planning Authority and approved in writing. The details shall include: (i) All hedging to be removed from site and the ecological implications and method of removal, (ii) replacement and mitigation measures for all hedging removed from the application site. The proposed development shall be carried out in accordance with the approved method and mitigation measures.

In the interest of the biodiversity of the area in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

16) Prior to the commencement of the development hereby approved, a phase 2 intrusive investigation contaminated land assessment and associated remedial strategy, together with a timetable of works, shall be submitted to and approved by the Local Planning Authority. The details shall include: a) A site investigation report detailing all intrusive investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the Local Planning Authority. The Local Planning Authority shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters. b) Approved remediation works shall be carried out in full on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority. c) Upon completion of the works, this condition shall not be discharged until a closure/validation report has been submitted to and approved by the Local Planning Authority. The closure report shall include details of the remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure/validation report together with the necessary documentation detailing what waste materials have been removed from the site.

To ensure that development of the land does not result in pollution of the environment in accordance with the aims of the National Planning Policy Framework.

17) Prior to development above slab level a detailed acoustic assessment shall be submitted to and approved in writing by the local planning authority. The assessment shall measure the perceived noise level and include any required mitigation measures if necessary. The proposed mitigation measures shall be implemented prior to the first occupation of the dwellings hereby approved.

In the interest of amenity in accordance with policy EN2 of the Sevenoaks District Council Allocation and Development Management Plan.

18) Prior to the commencement of the development details of the proposed discharge of foul water shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

To ensure that development of the land does not result in pollution of the environment in accordance with the aims of the National Planning Policy Framework.

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19) The proposed development shall be carried out in accordance with the approved Bellamy Wallace Partnership Drainage Strategy Report and associated drainage details unless otherwise approved in writing.

To ensure that development of the land does not result in pollution of the environment in accordance with the aims of the National Planning Policy Framework.

20) Prior to the first occupation of Barn 5 hereby approved, details of the boundary treatment between Barn 5 and Claydene Farmhouse shall be submitted to and approved in writing by the local planning authority. The approved boundary treatment shall be installed prior to first occupation of that unit and maintained as such thereafter.

To safeguard the privacy of residents as supported by Policy EN2 of the Sevenoaks Allocations and Development Management Plan.

21) Prior to the first occupation of the dwellings hereby approved parking provision as shown on approved plan no. 19-14-211-RevD shall be provided and maintained as such thereafter.

In accordance with policy T2 of the Sevenoaks District Council Allocation and Development Management Plan.

22) Prior to the bring the development hereby approved into first use and occupation the provision and maintenance of the visibility splays and access shown on the submitted plans 10203/103 B shall be provided at 2.4 metres x 115 metres, with no obstruction 0.6 metres above carriageway level within the splay. The visibility splays shall be maintained as such thereafter.

In the interest of highway safety.

23) The proposed hard and soft landscaping plans shall be implemented in accordance with the Materials, Furniture and Planting Palette 501 - Rev A and the Landscape Design and Access - Addendum including plan 19-14-211-Rev D. Any alterations to the landscaping shall be submitted to and approved in writing by the local planning authority. If any part of the approved landscaping scheme is removed, dies, becomes severely damaged or diseased within five years of completion of the development shall be replaced with the same species or an approved alternative to the satisfaction of the local planning authority within the next planting season. The approved details shall be implemented prior to bringing the development hereby approved into first use and maintained as such thereafter.

To enhance the visual appearance of the area as supported by EN5 of the Sevenoaks Allocations and Development Management Plan.

24) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 426 P 2, 19-14-211 - Rev D, 19-14-161, 10203/101 Rev B, 10203/103 Rev B, 10203/102 Rev B, K1986 - BWP - ZZ-XX- DR- D -0101 - P01, K1986 - BWP - ZZ- XX -DR -D - 0102 - P01, K1986 - BWP - ZZ - XX - DR - D - 0100 - P1, K1986 - BWP - ZZ - XX - DR - D - 0100 - P01, 415 P 3, 425 P 2, 424 P 2, 423 P 3, 421 P 2, 420 P 1, 419 P 2, 414 P 2, 411 P 2, 410 P 2, 407 P 2, 403 P 2, 406 P 2, 404 P 1, 417 P 1, 416 P 1, 413 P 1, 409 P 1, 408 P 1, 405 P 1, 401 P 1, 400

P 1, 100 P 2, 501 A, 19-14-211-RevD, Protected species report amended, Design and Access Statement

For the avoidance of doubt and in the interests of proper planning.

25) The ground floor windows along the south east side elevation of barn 2 to serve the en suite shall be obscure glazed and fix shut up to 1.7m from finished floor level. The proposed ground and first floor opening along the north west side elevation of barn 3(b) shall be obscure glazed and fixed shut up to 1.7m from finished floor level. The obscure glazing and fixed shut windows shall be maintained at all times.

To safeguard the privacy of residents as supported by Policy EN2 of the Sevenoaks Allocations and Development Management Plan.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Foreword

- 1 Application 19/02474/FUL at Claydene Farm, Hartfield Road, Cowden, KENT, TN8 7HF was heard at the 13th of February 2020 Development Control Committee. The proposal sought:

'Conversion of redundant agricultural Buildings to form 9 new residential units. Demolition of outbuildings. Landscaping works with new access and access alterations'.

- 2 Members agreed to the following resolution:

- A) That planning permission be GRANTED subject to the following conditions and a legal agreement to secure the contribution to affordable housing for either:
- a) An onsite policy compliant provision, or
 - b) A payment in lieu of affordable housing for provision of affordable housing elsewhere, calculated in accordance with the Affordable Housing SPD 2011.

OR

- B) In the event that, using all reasonable endeavours, the legal agreement referred to in recommendation A is not completed within 4 months of the

Agenda Item 4.4

meeting the Development Control Committee, the Chief Planning Officer be authorised to REFUSE the application for the following reason:

The application fails to make a contribution to affordable housing, contrary to policy SP3 of the Core Strategy.

- 3 The principle of the development was discussed and agreed by members.
- 4 The resolution required that all reasonable endeavours were required to reach an agreement. In light of Coronavirus, and the need to seek independent advice, the matter has been delayed past the 4-month time period given. In adopting reasonable endeavors to secure an agreement, the matter can return for the Committee's consideration with regard to the affordable housing offer, in accordance with part (b) of resolution A.
- 5 Members are asked to agree the acceptability of the proposed affordable housing contribution, which in this case is a financial contribution of £450,000 for the provision of affordable housing elsewhere in the District.
- 6 For reference the original committee report is appended to this report.

Description of Site

- 7 Claydene Farm is located to the south west of Hartfield Road and is comprised of an agricultural unit. The agricultural unit is comprised of 8 barns and other various outbuildings, structures and enclosures. The barns are set back from the road, however are visible due to the low rise hedging and the flat topography of the area.
- 8 The barns vary in height, bulk and design. The height varies from two storey to single storey with built form fluctuating in shape, form and materiality. The site is covered in informal hardstanding and is covered in debris.
- 9 An existing access is located off of Hartfield Road which is flanked by hedges and a low rise stone/brick wall.

Description of Proposal

- 10 Conversion of redundant agricultural buildings to form 9 new residential units. Demolition of outbuildings. Landscaping works with new access and access alterations.

Relevant planning history

- 11 19/02252/HOUSE - Proposed demolition of existing outbuilding, garage and rear extension, single storey rear and side extension with roof lantern, replacement double garage, new porch, Juliette balcony and alterations to fenestration - GRANTED.

Policies

- National Planning Policy Framework
- National Planning Policy Guidance

12 Core Strategy (CS)

- SP3 Provision of Affordable Housing

13 Other:

- Affordable Housing Supplementary Planning Document (2011)
- Update to Affordable Housing Supplementary Planning Document (2019)

Constraints

14 The following constraints apply:

- Green Belt - GB
- High Weald Area of Outstanding Natural Beauty - AONB
- Public Right of Way - PROW

Chief Planning Officer's Appraisal

15 Principle issue:

- Affordable Housing Provision

Affordable Housing provision:

16 As identified in the original officer report the application site exceeds 0.5 hectares and represents a major development. As such, and in accordance with the guidance of the National Planning Policy Framework and Policy SP3 of the Sevenoaks District Council Core Strategy an affordable housing contribution shall be sought.

17 The application site is located in the High Weald Area of Outstanding Natural Beauty. In accordance with the Affordable Housing SPD update (2019), the affordable housing contribution in this case should be provided in the form of a financial contribution, rather than an onsite contribution.

18 The site is located in a rural area with development of a unique nature which is likely to be unattractive to an affordable housing provider. As such, a financial contribution is accepted in this case.

19 The Government's Planning Practice Guidance, and the Council's Affordable Housing SPD acknowledge that an applicant can submit a viability case with their application.

20 The applicant has put forward that the scheme cannot support the extent of contribution required by the formula in the Affordable Housing SPD. As a result, a viability assessment was submitted for consideration by DHA Planning Ltd, supported by appropriate RICS valuations. The viability assessment was independently tested by Adams Integra on behalf of the Local Planning Authority. Discussion around an appropriate inputs was held, for example due to the variance in market values relating to the nature of the scheme being bespoke barn conversions.

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- 21 Having considered all relevant factors in line with the principles set out in the Government's Planning Practice Guidance and local policy, the Local Authority and the applicant came to the agreement of a contribution of £450,000. The payment would be due upon completion of the development and this would be secured through a Section 106 legal agreement.

Conclusion

- 22 A financial contribution in lieu of affordable housing is considered appropriate and policy compliant in this case. It is considered that the offer of £450,000 has been appropriately tested and is the maximum reasonable viable contribution in this case.
- 23 It is therefore recommended that the contribution be agreed and planning permission granted subject to the S106 agreement to secure the payment and the planning conditions described above.

Background papers

N/A

Contact Officer(s):

Emma Gore 01732 227000

Richard Morris
Chief Planning Officer

Appendix 1 Original report from Development Control Committee held on 13th February 2020

Appendix 1

4.3 19/02474/FUL Date expired 9 December 2019

Proposal: Conversion of redundant agricultural Buildings to form 9 new residential units. Demolition of outbuildings. Landscaping works with new access and access alterations.

Location: Claydene Farm, Hartfield Road, Cowden KENT TN8 7HF

Ward(s): Cowden & Hever

Item for decision

The application has been referred to Development Control Committee by Councillor Dickins so members can assess the impact of the development to the High Weald Area of Outstanding Natural Beauty.

RECOMMENDATION:

- A) That planning permission be GRANTED subject to the following conditions and a legal agreement to secure the contribution to affordable housing for either:
 - a) An onsite policy compliant provision, or
 - b) A payment in lieu of affordable housing for provision of affordable housing elsewhere, calculated in accordance with the Affordable Housing SPD 2011.

OR

- B) In the event that, using all reasonable endeavours, the legal agreement referred to in recommendation A is not completed within 4 months of the meeting the Development Control Committee, the Chief Planning Officer be authorised to REFUSE the application for the following reason:

The application fails to make a contribution to affordable housing, contrary to policy SP3 of the Core Strategy.

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

In pursuance of section 91 of the Town and Country Planning Act 1990.

- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement, improvement or other alteration permitted by Class A, B, D or E of Part 1 of Schedule 2 of the 2015

Order (as amended), or any enclosure other than those approved shall be permitted by Class A of Part 2 of the 2015 Order (as amended) shall be carried out or made to the dwellings and development hereby approved without the grant further planning permission by the local planning authority.

To prevent inappropriate development in the Green Belt as supported by GB7 of the Sevenoaks Allocations and Development Management Plan.

- 3) No development shall take place until details of tree protection measures for all retained trees have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the approved protection measures retained throughout the course of the development.

To prevent damage to the retained trees during the construction period of the dwelling as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

- 4) Prior to bringing the development hereby approved into first use details of a scheme to show the provision of electric vehicle charging points, including the proposed location, type and specifications shall be submitted to and approved by the Local Planning Authority. The charging point shall be installed in accordance with the approved details prior to first occupation of the development.

To ensure the sustainability of the site in accordance with policy T3 of the Allocations and Development Management Plan.

- 5) Prior to the installation of glazing on the residential dwellings, full details of the type of glazing and mitigation measures to be installed to prevent light spillage should be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and once implemented the approved details shall thereafter be retained as approved.

In the interests of the dark skies of the Area of Outstanding Natural Beauty in accordance with policy EN5 of the Sevenoaks District Council Allocation and Development Management Plan.

- 6) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of; - a programme of building recording in accordance with a written specification and timetable, - a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The programme of building recording, written specification, timetable and watching brief shall be in accordance with a written programme and specification which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the aforementioned approved details.

To ensure that features of archaeological interest are properly examined and recorded in accordance with policy EN4 of the Sevenoaks District Council Allocation and Development Management Plan.

- 7) Prior to first occupation of the development hereby approved all demolition as indicated on plan 400 P 1 shall be undertaken and all resultant materials removed from the land.

To prevent inappropriate development in the Green Belt as supported by GB7 of the Sevenoaks Allocations and Development Management Plan.

- 8) No development shall be carried out on the land until details of the materials to be used in the cladding of the external surfaces of the converted barns hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved materials.

To ensure that the appearance of the development enhances the character and appearance of the High Weald Area of Outstanding Natural Beauty as supported by Policy EN5 of the Sevenoaks Allocations and Development Management Plan.

- 9) If the demolition of each of the buildings hereby approved does not commence within 2 years from the date of the submitted bat surveys (summer 2019) under application 19/02474/FUL, further ecological surveys shall be undertaken to: i) establish if there have been any changes in the presence and/or abundance of bats, and ii) identify any likely ecological impacts that might arise from any changes. Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, a Biodiversity Method Statement, detailing all necessary ecological mitigation/compensation measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of demolition. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable, unless varied by a European Protected Species licence subsequently issued by Natural England.

In the interest of protected species in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

- 10) No external lighting shall be installed within the red line site plan as illustrated on plan 100 P 2 or on any elevation of the approved dwellings without seeking approval in writing from the local planning authority. Prior to the use of the first building a "lighting design strategy for biodiversity" for the site will be submitted to and approved in writing by the local planning authority. The lighting strategy will: a) Identify those areas/features on site that are particularly sensitive; b) Show how and where external lighting will be installed in accordance with 'Guidance Note 8 Bats and Artificial Lighting' (Bat Conservation Trust and Institute of Lighting Professionals); All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall be maintained thereafter in accordance with the strategy. Such details shall include proposed location(s), height, type and

direction of light sources. The development shall be carried out in accordance with any approved details and maintained thereafter.

In the interest of protected species in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

- 11) Within six months prior to the commencement of development, a walkover badger survey shall be carried out and the results along with any necessary mitigation measures will be submitted to and approved in writing by the Local Planning Authority. The measures will include: a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day. The measures shall be implemented in accordance with the approved details.

In the interest of protected species in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

- 12) No demolition works shall take place (including any ground works, site or vegetation clearance), until a method statement for the prevention of unnecessary suffering to foxes and rabbits has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the: a) Purpose and objectives for the proposed works; b) Working method, including timings, necessary to achieve stated objectives; c) Extent and location of proposed works shown on appropriate scale plans; d) Provision for species rescue; e) Persons responsible for implementing works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works. The works shall be carried out in accordance with the approved details

In the interest of mammals found on site in accordance with policy SP11 of the Sevenoaks District Council Core Strategy

- 13) Within six months prior to the commencement of development, a barn owl survey shall be carried out and the results along with any necessary mitigation measures will be submitted to and approved in writing by the Local Planning Authority. The measures will include: a) Provision for update surveys prior to commencement of development; b) Replacement temporary and permanent nesting provision for any lost as a result of the development works, with reference to The Barn Owl Trust guidance. The measures shall be implemented in accordance with the approved details.

In the interest of protected species in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

- 14) Prior to first occupation of the development hereby approved, details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with native species planting and the provision of hedgehog holes in boundary features. The approved details will be implemented and thereafter retained.

In the interest of the biodiversity of the area in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

- 15) Prior to the commencement of the development details of the works to all hedges within the red line boundary shall be submitted to the Local Planning Authority and approved in writing. The details shall include: (i) All hedging to be removed from site and the ecological implications and method of removal, (ii) replacement and mitigation measures for all hedging removed from the application site. The proposed development shall be carried out in accordance with the approved method and mitigation measures.

In the interest of the biodiversity of the area in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

- 16) Prior to the commencement of the development hereby approved, a phase 2 intrusive investigation contaminated land assessment and associated remedial strategy, together with a timetable of works, shall be submitted to and approved by the Local Planning Authority. The details shall include: a) A site investigation report detailing all intrusive investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the Local Planning Authority. The Local Planning Authority shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters. b) Approved remediation works shall be carried out in full on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority. c) Upon completion of the works, this condition shall not be discharged until a closure/validation report has been submitted to and approved by the Local Planning Authority. The closure report shall include details of the remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure/validation report together with the necessary documentation detailing what waste materials have been removed from the site.

To ensure that development of the land does not result in pollution of the environment in accordance with the aims of the National Planning Policy Framework.

- 17) Prior to development above slab level a detailed acoustic assessment shall be submitted to and approved in writing by the local planning authority. The assessment shall measure the perceived noise level and include any required mitigation measures if necessary. The proposed mitigation measures shall be implemented prior to the first occupation of the dwellings hereby approved.

In the interest of amenity in accordance with policy EN2 of the Sevenoaks District Council Allocation and Development Management Plan.

- 18) Prior to the commencement of the development details of the proposed discharge of foul water shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

To ensure that development of the land does not result in pollution of the environment in accordance with the aims of the National Planning Policy Framework.

- 19) The proposed development shall be carried out in accordance with the approved Bellamy Wallace Partnership Drainage Strategy Report and associated drainage details.

To ensure that development of the land does not result in pollution of the environment in accordance with the aims of the National Planning Policy Framework.

- 20) Prior to the first occupation of Barn 5 hereby approved, details of the boundary treatment between Barn 5 and Claydene Farmhouse shall be submitted to and approved in writing by the local planning authority. The approved boundary treatment shall be installed prior to first occupation of that unit and maintained as such thereafter.

To safeguard the privacy of residents as supported by Policy EN2 of the Sevenoaks Allocations and Development Management Plan.

- 21) Prior to the first occupation of the dwellings hereby approved parking provision as shown on approved plan no. 19-14-211-RevD shall be provided and maintained as such thereafter.

In accordance with policy T2 of the Sevenoaks District Council Allocation and Development Management Plan.

- 22) Prior to the bring the development hereby approved into first use and occupation the provision and maintenance of the visibility splays and access shown on the submitted plans 10203/103 B shall be provided at 2.4 metres x 115 metres, with no obstruction 0.6 metres above carriageway level within the splay. The visibility splays shall be maintained as such thereafter.

In the interest of highway safety.

- 23) The proposed hard and soft landscaping plans shall be implemented in accordance with the Materials, Furniture and Planting Palette 501 - Rev A and the Landscape Design and Access - Addendum including plan 19-14-211-Rev D. Any alterations to the landscaping shall be submitted to and approved in writing by the local planning authority. If any part of the approved landscaping scheme is removed, dies, becomes severely damaged or diseased within five years of completion of the development shall be replaced with the same species or an approved alternative to the satisfaction of the local planning authority within the next planting season. The approved details shall be

implemented prior to bringing the development hereby approved into first use and maintained as such thereafter.

To enhance the visual appearance of the area as supported by EN5 of the Sevenoaks Allocations and Development Management Plan.

- 24) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 426 P 2, 19-14-211 - Rev D, 19-14-161, 10203/101 Rev B, 10203/103 Rev B, 10203/102 Rev B, K1986 - BWP - ZZ-XX-DR- D -0101 - P01, K1986 - BWP - ZZ- XX -DR -D - 0102 - P01, K1986 - BWP - ZZ - XX - DR - D - 0100 - P1, K1986 - BWP - ZZ - XX - DR - D - 0100 - P01, 415 P 3, 425 P 2, 424 P 2, 423 P 3, 421 P 2, 420 P 1, 419 P 2, 414 P 2, 411 P 2, 410 P 2, 407 P 2, 403 P 2, 406 P 2, 404 P 1, 417 P 1, 416 P 1, 413 P 1, 409 P 1, 408 P 1, 405 P 1, 401 P 1, 400 P 1, 100 P 2, 501 A, 19-14-211-RevD, Protected species report amended, Design and Access Statement

For the avoidance of doubt and in the interests of proper planning.

- 25) The ground floor windows along the south east side elevation of barn 2 to serve the en-suite shall be obscure glazed and fix shut up to 1.7m from finished floor level. The proposed ground and first floor opening along the north west side elevation of barn 3(b) shall be obscure glazed and fixed shut up to 1.7m from finished floor level. The obscure glazing and fixed shut windows shall be maintained at all times.

To safeguard the privacy of residents as supported by Policy EN2 of the Sevenoaks Allocations and Development Management Plan.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Description of site

- 1 Claydene Farm is located to the south west of Hartfield Road and is comprised of an agricultural unit. The agricultural unit is comprised of 8 barns and other various outbuildings, structures and enclosures. The barns are set back from the road, however are visible due to the low rise hedging and the flat topography of the area.
- 2 The barns vary in height, bulk and design. The height varies from two storey to single storey with built form fluctuating in shape, form and materiality. The site is covered in informal hardstanding and is covered in debris.

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- 3 An existing access is located off of Hartfield Road which is flanked by hedges and a low rise stone/brick wall.

Description of proposal

- 4 Conversion of redundant agricultural buildings to form 9 new residential units. Demolition of outbuildings. Landscaping works with new access and access alterations.

Relevant planning history

- 5 19/02252/HOUSE - Proposed demolition of existing outbuilding, garage and rear extension, single storey rear and side extension with roof lantern, replacement double garage, new porch, Juliette balcony and alterations to fenestration - GRANTED.

Policies

- 6 National Planning Policy Framework (NPPF)

- 7 Core Strategy (CS)

- LO1 Distribution of Development
- LO8 The Countryside and the Rural Economy
- SP1 Design and New Development and Conservation
- SP2 Sustainable Development
- SP3 Provision of Affordable Housing
- SP7 Housing Density
- SP8 Economic Development and Land for Business
- SP11 Biodiversity

- 8 Allocations and Development Management Plan (ADMP)

- SC1 Presumption in Favour of Sustainable Development
- EN1 Design Principles
- EN2 Amenity Protection
- EN5 Landscape
- EN6 Outdoor Lighting
- EMP5 Non Allocated Employment Site
- GB7 Re-use of a Building within the Green Belt
- T1 Mitigating Travel Impact
- T2 Vehicle Parking
- T3 Provision of Electrical Vehicle Charging Points

- 9 Other:

- Development in the Green Belt SPD
- The High Weald AONB Management Plan 2019 -2024
- Sevenoaks District Council Landscape Management Plan

- High Weald Housing Design Guide: Building better, building beautiful in the AONB

Constraints

10 The following constraints apply:

- Green Belt - GB
- High Weald Area of Outstanding Natural Beauty - AONB
- Public Right of Way - PROW

Consultations

11 Cowden Parish Council -

12 “Members of the Planning Committee of Cowden Parish Council have recently considered the planning application referenced above and have raised several concerns in respect of the proposed development.

13 Members expressed concerns in respect of the significant detrimental impact that the proposed development would have upon the openness of the Green Belt as a result of its design, scale and volume:

14 Design- Sevenoaks District Council issues guidance on the re-use of buildings in the Green Belt. Section 4 of SDC’s Development in the Green Belt SPD, for example, seeks to achieve the sympathetic conversion of traditionally-built farm buildings in order to retain, as far as possible, their original character. Whilst the plans as proposed strive to achieve the retention of the original buildings’ character, because the existing buildings are characterless, Members considered that in this instance the result was similarly without character and totally unsympathetic to the local area. It was suggested, for instance, that in this specific case a small residential development of well-designed houses with less overall bulk and dominance might be a more preferable route.

15 Access- Safe vehicle access to and from the proposed development onto the busy B2026 Hartfield Road was also raised by Members. However, Members noted that Kent Highways have overall responsibility for this aspect.

16 Openness of the Greenbelt- This proposal represents a significant new development within both the Parish and the Ward. Over recent years, other development has been undertaken within the vicinity of this site and Members are concerned that the development’s size and significance will compound infilling and the associated impact that this would bring to the openness of the Green Belt. One of the larger conversion plans applying to the Dutch barn, currently an open structure, would result in a closed structure if the plans were approved. In recent years there have been large and incremental developments in close proximity to this proposal that have

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changed the character of this area. It is considered that this proposal will exacerbate that and there were concerns that future development may result in further infilling.

- 17 Decision- As submitted, Members of Cowden Parish Council would not support this application based upon its detrimental impact upon the openness of the Green Belt as a result of its bulk and scale which Members believe are in contravention of planning policies GB7 and GB4.
- 18 However, Members, would consider another application for development at this site which provided for a smaller, more aesthetically pleasing development with a clear reduction in bulk and scale.
- 19 The Parish Council has reviewed responses submitted to Sevenoaks District Council from Cowden residents in respect of the proposed development and their comments are noted.
- 20 Members resolved not to support this application.”
- 21 Environment Agency -
- 22 “We have no comments to make on this planning application as it falls outside our remit as a statutory planning consultee.”
- 23 Natural England -
No comment
- 24 Environmental Health -
- 25 1st Response:
- 26 Objection - “The applicant has not submitted a phased contaminated land assessment and whilst this could be required by condition a comprehensive assessment will be required due to the former use of the site.
- 27 It appears that a commercial concern is in operation nearby, therefore the applicant should have regard to paragraph 182 of the National Planning Policy Framework and associated planning practice guidance. This would indicate a significant acoustic assessment is required not just to quantify the impact of noise on the future residents but to ensure that those residents do not impose any unreasonable restrictions on any business.
- 28 At the moment there is insufficient information for me to support this application.”
- 29 2nd Response:
- 30 “Environmental Health have no further comments or observations since our previous comments made on the 1st October 2019’.
- 31 ‘Please disregard the comments of the 22nd October, as a phase 1 investigation has now been undertaken, as identified by the investigation the applicant should submit a remediation strategy to be agreed in writing

by the local planning authority. On completion of remedial works and soil importation the applicant shall submit a verification report to demonstrate that all necessary remedial works have been undertaken, to be agreed in writing by the local planning authority prior to first habitation of the dwellings.

- 32 My comments regarding the need for an acoustic assessment are as previously stated”.
- 33 Clarification: “Sorry for the confusion. As the report identified that further investigation was required Colin’s earlier comments remained unaddressed. My fault and I should have clarified.
- 34 The submitted phase one assessment has identified a number of concerns and recommendations that an intrusive investigation will be required and potentially a remediation strategy submitted. As before could be required by condition, as could the requirement for an acoustic assessment as suggested by Colin’.
- 35 Further Clarification: “With reference to my email below concerning possible conditions for acoustic assessment and intrusive investigation for ground contamination, I am happy for these to be required as pre-commencement conditions.”
- 36 KCC West Kent Public Rights of Way -
No response
- 37 Southern Water -
No response
- 38 SDC Tree Officer -
- 39 “I refer to the above application. I have visited the site and have studied the plans provided and have made the following observations:
- 40 I can inform you that there are no protected trees located at this site and it is not situated within a conservation area. The principle trees located at this site are all situated besides the pond including a mature willow and a young Oak tree. According to the plan provided, drawing no. 401, these trees are shown to be retained. I also note from the demolition plan, that several buildings are to be demolished including barn 7 and barn 8. These works would be taking place within the RPA’s of both trees. I recommend that the developer provides further information as to how these works are to take place without damaging these trees. Other than this, I have no further objections to the proposed development.”
- 41 2nd Consultation -
- 42 “I refer to the above application. I have visited the site and have studied the plans provided and have made the following observations:

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- 43 I refer to my previous comments dated 23rd September. Having viewed the amended plans, the layout appears to be similar to those previously submitted. Therefore, my comments remain the same.”
- 44 KCC Ecology -
- 45 KCC Ecology have provided a series of comments. The final comments can be seen below, these have been summarised for brevity:
- 46 “The amended *Protected Species Report* has been submitted. The amendments relate to the great crested newt section of the report. Bats With regards to bats, our previous advice remains valid and we suggest condition wording below...
- 47 The amended *Protected Species Report* clarifies that the grassland in the south of the site has been taken account of in the evaluation of potential ecological impacts. Further information outlining the proposed approaches to mitigation/compensation for impacts to great crested newts has been provided, with Figure 4 of the report showing the proposed location of the great crested newt receptor area.
- 48 With reference to our previous advice note, we advise that in relation to the ‘third test’, the information provided is sufficient for us to conclude that the favourable conservation status of great crested newts can/will be met in the proposed scheme.
- 49 We do note that the submitted landscaping arrangements show the proposed receptor area as ‘species rich amenity lawn’. The use of and habitat enhancement measures within the receptor area will be secured within the European protected species mitigation licence (EPSML) so we do not consider it necessary for amendments to be sought at this time. It should though be noted that the currently submitted landscaping will be subject to changes as a result of EPSML requirements.
- 50 Other mammals- To ensure that appropriate measures are implemented to minimise the potential for harm and/or unnecessary suffering of badgers, foxes and rabbits, we advise that the submission and implementation of a method statement is secured by condition, if planning permission is granted.
- 51 Badgers - suggested condition wording... Foxes and rabbits - suggested condition wording...
- 52 Barn owl protection - suggested condition wording...
- 53 Other matters not addressed in the *Protected Species Report*:
No information has been provided to address our previous query: A new entrance and access road to the site is included within the proposed development, this will result in the loss of a small section(s?) of hedgerow and grassland. We advise that further information is sought to ensure that the potential ecological impacts of these aspects of the proposal can be addressed.

- 54 Ecological enhancements- The proposed development provides opportunities to incorporate features into the design which are beneficial to wildlife, such as native species planting and the installation of bat/bird nest boxes. We advise that measures to enhance biodiversity, in addition to all necessary mitigation/compensation measures, are secured as a condition of planning permission, if granted. This is in accordance with Paragraph 175 of the NPPF *“opportunities to incorporate biodiversity improvements in and around developments should be encouraged”*.
Ecological enhancements - suggested condition wording...”
- 55 Hever Parish Council -
- 56 “As a neighbouring parish, Hever Parish Council planning committee make the following comments for your consideration;
1. Noting that Miller Architects have submitted separate applications for the conversion of the barns from the farm house refurbishment.
 2. Although the site is currently unsightly, any development should be in proportion to the surrounding area and properties. The high intensity development on previous agricultural land may be contrary to LO8.
 3. For CIL purposes it is suggested this should be nil, as leases prove an agricultural use has occurred for at least 6mths in the last 3 years. However, the actual application form states it to be a redundant dairy farm which is a contradiction to the first statement.
 4. The Government’s Planning Policy Statement PPS1 sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. In our view is a unsustainable location, no footpaths, public transport etc. and this location is not sustainable due to the absolute reliance on the ownership of a private car for every aspect of daily life - schooling, shops, employment, medical services etc. The proposal is contrary to Policy SC1 and EN1, which states that proposals must ensure satisfactory means of access for pedestrians.
 5. What is the proposed provision of rural affordable units? Noting Policy SP3 of the Core Strategy.
 6. We note that a comparable site, Eden Hall (Conversion of a Convent) down the road is still in the main unsold after a year post completion.”
- 57 Local Lead Flood Authority -
- 58 1st response -
- 59 “Unfortunately no surface water drainage strategy has been provided for the proposed development. We would therefore recommend the application is not determined until a complete surface water drainage strategy has been provided for review”
- 60 2nd response -

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- 61 “Kent County Council as Lead Local Flood Authority have reviewed the application and understand the application falls outside our remit as statutory consultee. Although it is outside our remit, we have the following comments to make:
- 62 The application has provided a detailed drainage strategy which proposes to attenuate and discharge at a controlled rate into an existing ditch onsite of which we agree with these principles. We would advise however that prior to occupation, a suitable maintenance schedule is provided and implemented for the lifetime of the development.
- 63 It is also apparent that the development proposes to discharge treated foul water into the existing ditch. While we do not comment on foul water disposal, we would advise that the EA are consulted with regards to this proposal.
- 64 We would have no objection in principle to the proposed development but recommend the LPA considers the above comments when determining the application.”
- 65 KCC Highways -
- 66 1st Response -
- 67 “The proposal is for the conversion of redundant agricultural buildings to form 9 residential units (2 x 2 bed, 3 x 3 bed, 3 x 4 bed and 1 x 5 bed), providing 17 car parking spaces, 30 cycle parking spaces and a new access from Hartfield Road, Hartfield is subject to a 50mph speed limit in the vicinity of the site. The existing accesses are proposed to be stopped up due to the restricted visibility and a new access is proposed.
- 68 Visibility splays of 2.4 metres x 115 metres are proposed. The desired minimum deceleration would require visibility splays of 147 metres in both direction. It is clear that this length of splay is not achievable due to the bend in the road. I am minded to accept the proposed visibility splays of 2.4 metres x 115 metres, with no obstruction 0.6 metres above carriageway level within the splay.
- 69 Public Right of Way SR667 passes through the site along the existing access route. I suggest that colleagues in KCC PROW are consulted to ensure that a safe passage for all pedestrians along the route is maintained. I suggest that an internal footpath is incorporated between barn 2 and 5 to ensure conflicts to not arise between pedestrians and vehicles.
- 70 17 car parking spaces are proposed, which in line with IGN3 parking standards, of 1.5 spaces per 2 bed unit and 2 independently accessible spaces for units 3 bed and above. However, no visitor parking has been proposed. Due to the location of the site, I suggest a minimum of 20% is provided on site. 30 cycle parking spaces are proposed which is in line with SPG4 standards.

- 71 Scale measurements of the access indicate a road width of 4.3 metres. The belmouth entrance abutting the highway is approximately 13.4 in width. Tracking for refuse and emergency vehicles has been provided as part of the TA, which indicates that the proposed access would mean that larger vehicles would traverse on to the opposite side of the road when existing the site. The tracking indicates that the access route is not wide enough to accommodate a refuse freighter and any other vehicles travelling in the opposing direction.
- 72 I am concerned about the narrow nature of the access, which would require widening to 4.8 metres minimum or provide passing places. Due to the undulating nature of the access route, I would prefer for the access road to be widened to safely accommodate two vehicles. The road north of the turning head requires widening as the tracking indicates some conflict where a freighter would be required to stop to reverse. The turning movement would overrun the road boundary on either side.
- 73 Clear visibility will be required for vehicles exiting spaces for barns 4b and 4c, which currently has some restrictions due to the bend in the road heading north.
In line with the above, in order that I may fully assess the highway implications I shall require further information in respect of: Visitor parking spaces within the development at a minimum of 20% provision on site; Widening of the access at the junction with Hartfield Road to enable easier movement of large vehicles to avoid conflicts with traffic travelling in the opposite direction; Widening of the access to a minimum of 4.8 metres to allow two vehicles to pass; Realignment to ensure suitable visibility at barns 4b and 4c and remove conflicts of large vehicles reversing at the turning area.
- 74 I shall also be grateful if you will allow an extension of time to the normal consultation period in order that the highway implications of this proposal can be properly assessed. I will let you have my comments as soon as possible”.
- 75 2nd Response -
- 76 “Further to my previous comments dated 8 October 2019 on the above planning application I confirm that I now raise no objection on behalf of the local highway authority.
- 77 Additional visitor car parking spaces have been included to the site layout which is considered acceptable. The access has been widened to 5.5 metres with a junction radii of 10.5 metres.
- 78 Tracking indicates that some encroachment on to the opposite side of Hartfield Road still occurs, but this is deemed acceptable. The access route has been winded to 4.8 metres to enable to vehicles to pass. In addition, the turning area has been amended to enable greater visibility”.

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- 79 Kent Wildlife Trust -
- 80 No response
- 81 KCC County Archaeology -
- 82 “Thank you for your letter consulting us on the above planning application for conversion of redundant agricultural buildings to form 9 residential units and associated works.
- 83 The farm complex is identifiable on the 1st Ed OS map and may be of post medieval or earlier origins. Remains associated with post medieval activity may survive on site. In view of the archaeological potential, I recommend the following conditions are placed on any forthcoming consent...”
- 84 Environment Agency -
- 85 “We have no comments”
- 86 KCC Economic Development -
- 87 Request for funds as a result of development

Representations

- 88 1 letter neither supporting nor objecting to the scheme has been received related to the following issues:
- Generally in support of the application.
 - Located in an AONB and in the setting of listed buildings, design should be sensitive.
 - Barn 4 is large and dominate in the landscape, the height of the barn should be reduced.
- 89 4 letters of objection have been received relating to the following issues:
- Design would not be in keeping with the local area.
 - Density and type of housing proposes is too high for local amenities to support.
 - Limited parking in rail station to handle commuters.
 - Highway risks due to blind bend.
 - Too many grated planning permissions in the local vicinity.
 - Site is currently untidy and dangerous, to have 9 houses on the site would make it more unsightly.
 - Road is busy and dangerous.
 - Houses would alter the natural beauty of the landscape.
 - Limited public transport.
 - Local services are full (i.e. schools).
 - No need for additional housing.
 - Highway safety risks.

- Noise as a result of additional traffic would be unacceptable.
- Light pollution due to additional traffic.
- Scale of the development would not conserve or enhance the AONB landscape.
- Harm to the open character of the Green Belt.
- No need for additional housing as other developments have not sold out and no record of such an intense redevelopment in the local area.
- Application should be considered as a major development not minor.
- Proposal ignores local and national design guidance in regard to developments in the Green Belt and AONB.
- Material impact to the openness of the Green Belt and harm to existing character of the area.
- Development out of character with the area.
- Material increased negative impact at the apex of the ridgeline in an AONB.
- The redevelopment of barn 4 represents incongruous and dominate built form.

Chief Planning Officer's Appraisal

90 The main planning considerations are:

- Principle of development
- Impact to the Green Belt
- Impact to the Area of Outstanding Natural Beauty
- Impact to the design and character of the area
- Impact to neighbouring amenity
- Impact to highways and parking
- Other
- Affordable Housing
- Biodiversity
- Trees and Landscaping
- Area of Archaeological Potential
- Drainage
- Public Rights of Way

Principle of development

- 91 Whilst the National Planning Policy Framework (NPPF) places an emphasis on development on previously developed land, it does not preclude other land, from being developed for residential use, provided such development is in suitable locations and relates well to its surroundings.
- 92 Para 122 of the NPPF (in part) states that planning policies and decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an areas prevailing character and setting or of promoting regeneration and change.
- 93 Policy LO1 of the Core Strategy identifies that development would be focused within the built confines of existing settlement. In locations outside

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- 94 of defined settlement the policy allows development to take place, only where it is compatible with policies for protecting the Green Belt and the High Weald Areas of Outstanding Natural Beauty.
- 95 Policy LO8 of the Core Strategy states that the countryside will be conserved and the distinctive features of these landscapes will be conserved and enhanced and protects the Green Belt.
- 96 Policy EMP5 of the ADMP seeks to protect existing employment sites. The site was previously utilised as a dairy farm which has ceased to operate. The site is not allocated for employment. In addition, due to the need for repair to meet modern agricultural standards significant investment would be required.
- 97 The site was marketed from May 2018 which included two large V boards on the farm yard facing towards the main road and further down the road. The site was also advertised in the 'South East Farmer' magazine, farmers weekly, Kent and Sussex Courier and Complete Land Management web-site.
- 98 The lot was divided up and larger parcels of land were sold off to private residents. The site had been marketed for the required 6 months. The site would require significant investment for farming purposes and the land was not purchased for farming during the marketing period. The proposal is considered to comply with policy EMP5 of the ADMP.
- 99 Local and National policy does seek to provide residential accommodation, subject to the impact to the impact to the Green Belt and AONB alongside other material planning considerations the development may be principally acceptable.

Green Belt

- 100 The application site is utilised for agricultural purposes and does not represent Previously Developed Land (PDL), in accordance with the NPPFs definition. As identified above the NPPF does not specifically exclude such land from development. Paragraph 146 of the NPPF also states:
- 101 'Certain other forms of development are also not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it. These are... (d) the re-use of buildings provided that the buildings are of permanent and substantial construction'.
- 102 In addition, Policy GB7 of the Allocation and Development Management Plan does permit the re-use of buildings in the Green Belt subject to meeting various criteria. The agricultural units on site were constructed more than 10 years ago as they feature on aerial photography from 2009.
- 103 Criteria (a) of policy GB7 seeks to ensure that any new use of the land would not result in a materially greater impact to the open character of the Green Belt.

- 104 The proposal would result in the creation of 9 residential units. The use of the land would introduce a degree of residential paraphernalia to the landscape. However, the existing agricultural use also adds paraphernalia with agricultural practices and machinery.
- 105 The proposal would see the removal of a number of outbuildings and the enclosures of the silage clamps. In addition, large portions of the barns built form would also be removed. The site would see the loss of bulk and massing across the site as a result of the proposal.
- 106 Permitted development rights would be removed upon any approval which would provide control of any further development to prevent a loss of openness. The proposal is considered to comply with criteria (a) of policy GB7 of the ADMP.
- 107 Criteria (b) of policy GB7 states that the applicant must be able to demonstrate that the buildings are of permanent and substantial construction and capable of conversion without major reconstruction that would detract from their original character.
- 108 The applicant has submitted a detailed structural report and method statement as part of the application. The guidance to policy GB7 does state that 75% of the structures should be retained. The structural report submitted survey each of the barns located on site. The report concludes that 'overall the buildings are of good quality and, in our view, of permanent and substantial construction'.
- 109 The survey indicates that while some additional support and strengthening will be required in parts of the barns, at least 75% of the original structures would be retained. Indeed, the method statement does state that some underpinning would occur and a form of propping up during conversion would occur to maintain stability, but the structure would be retained.
- 110 The proposed structures would see some demolition, this is considered to be of benefit to the Green Belt. The buildings would also be re-clad. However, the structure and form of the barns would be retained. The form, bulk and massing would be maintained and thus the character of the original structure could still be observed.
- 111 Although the barns would be clad large portions of glazing would be introduced to retain the impression of openings. The cladding does not remove the structural integrity or 75% of the structure of the barns. The conclusions of appeal APPG/G2245/W/17/3181949, Land South of Vine Cottage, Grove Road, Penshurst, it is clear that recladding does not amount to re-building and so long as the structure remains in place that is considered adequate for the provision of local and national policy. Some of the barns roof do contain asbestos and as such the roofs may require replacement, however as stated above re-cladding rather than re-building.

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- 112 Given that the barns are considered capable of conversion and are of permeant and substantial construction. The proposal is considered to comply with policy GB7 of the ADMP and paragraph 146 of the NPPF, as the sizes and proportions of the conversions would reflect the utilitarian character of the barns. The development is considered to be appropriate in the Green Belt and preserves openness.
- 113 Paragraph 146 of the NPPF is not as prescriptive as policy GB7. As identified above it is considered that the application complies with policy GB7 and would therefore comply with paragraph 146.
- 114 In addition, it is worth noting paragraph 143 and 144 of the NPPF which allows development if a case of very special circumstances outweighs the harm resulting from the development. While the application is considered policy compliant it is worth noting that the proposal would result in the loss of large degrees of built form. In addition, the enclosure of the silage clamps would be removed and the landscaping restored. As such, a case of very special circumstances could likely be utilised to justify development outside of the other supportive policy in this regard.

Impact to the Area of Outstanding Natural Beauty

- 115 The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development.
- 116 There are therefore two considerations directly related to a site's AONB status when determining a planning application. Firstly, does the application conserve the AONB and secondly, if it does conserve the AONB does it result in an enhancement. A failure to achieve both of these points will result in a conflict with the requirements of the Act.
- 117 Policy EN5 of the ADMP states that the Kent Downs and High Weald Areas of Outstanding Natural Beauty and their settings will be given the highest status of protection in relation to landscape and scenic beauty. Proposals within the AONB will be permitted where the form, scale, materials and design will conserve and enhance the character of the landscape and have regard to the relevant Management Plan and associated guidance.
- 118 The application site is located within the High Weald Area of Outstanding Natural Beauty. The natural beauty of the High Weald AONB is defined by 5 components in accordance with the Management Plan, these are; geology, landform and water systems, settlement, route ways, woodland and field and heath.
- 119 Paragraph 172 of the NPPF states that: '...Planning permission should be REFUSED for major developments⁵⁵ other than in exceptional circumstances, and where it can be demonstrated that the development is in the public

interest'. While it is, in accordance with footnote 55 for the decision maker to determine what constitutes 'major development', in this instance the proposal will be assessed under the three tests below:

- a) The need for development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon, the local economy.
 - The proposal would provide additional housing for the district in accordance with the provisions and aims of the NPPF and local planning policy.
 - As assessed above a large degree of the land formally associated with the dairy farm was sold off. In addition, a large degree of investment would be required to bring the farm back into viable agriculture. The site was marketed for an appropriate period. The impact in regard to the conversion would provide some short term employment in construction but ultimately have a nil impact to the economy.

- b) The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
 - The site, although not previously developed, does contain built form and a degree of contamination. The impact of converting the site which already has impact on the landscape is preferred to the impact of building on Green Field sites.
 - The sites current condition provides a method of creating rural housing stock without further significant harm to Green Field sites in a District for which 60% of the land is covered by an AONB designation.

- c) Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.
 - The proposal would offer the opportunity to remediate the contaminated land on site which would be of benefit to the environment.
 - As will be discussed below the application has been accompanied by an extensive landscaping plan which would see a net gain in trees and hedging across the site.
 - The proposal is located within the vicinity to a cluster of established built form and residential land uses.

120 It is considered that the proposal meets with the three test provided above and further assessment of the impacts to the AONB will be considered below.

121 Settlements and development form part of the character of the AONB with 'dispersed historic settlement including high densities of isolated farmsteads'. The site in question is a modern collection of farm buildings located on a historic farmstead. The AONB management plan identifies that such farmsteads form an intrinsic part of the character of the High Weald AONB.

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- 122 Farmsteads in the High Weald have their origins in medieval farming which has led to irregular field patterns but also include more modern farmstead development in the industrial revolution. The High Weald Housing Design Guide identifies that:
- 123 ‘For development to reflect and enhance the character of the High Weald it must be designed to integrate into its setting. This means more than reflecting merely the visual appearance of the current setting, but includes understanding how the landscape and its settlements have evolved and why the area is the way it is today’.
- 124 The conversion of the existing barns allows for the development to reflect the design guidance for the AONB. While some of the buildings on site have modern origins some pre-date 1940 and the site itself appears as a farm unit in historic mapping. The County Archaeologist identifies that the site may have medieval farm links. The proposal would provide the opportunity to explore the archaeology of the area.
- 125 The retention and conversion of the unit would reflect the agricultural ties to the area and its historical development. The barns and buildings on site form part of the existing landscape and link to the areas historic farming context. The retention of the built form also allows the informal layout of the site to be maintained. The layouts density and form conserves the agricultural character rather than reflecting the more suburban residential development that can occur with redevelopment.
- 126 The conversion of the existing barns would retain the form, bulk and massing present on the existing landscape. The form of the buildings have clear agricultural ties with the linear, square and utilitarian appearance of the buildings. The conversion would conserve the existing character of the site.
- 127 The buildings do have a large scale which is typical of such farming units. Barn 4 is the tallest building on site with an unusual semi-circular roof form. The building is distinct. However, it sits within a group of buildings and does not stand alone or isolated. The site is located on a ridgeline however the siting to the edge of a field pattern in close proximity to other residential built form would not dominate the landscape.
- 128 The other barns have a more typical pitched gable roof form with low slung eaves. The conversion preserves and conserves the character of the landscape. The formalisation of the barns would create a more substantive building. However, this already forms part of the landscape and is reflective of the large agricultural buildings which are present in the vicinity.
- 129 The use of timber cladding would aid the development in weathering into the landscape. Timber is a typical material associated with the High Weald AONB. The materials proposed have a matt quality which would prevent reflection and conserve the character of the site and its impression on the landscape.

- 130 A loss of some associated farming paraphernalia including the silage clamps is welcome. The loss of such features does allow for parts of the landscape to be reclaimed. The loss of built form would also aid in opening up the site. Due to the existing layout the curtilages of the proposed dwellings would follow the irregular field pattern which is featured across the AONB.
- 131 The proposal has been accompanied by a landscape design and access statement and has been landscape lead. The proposal includes access routes which are curved to the buildings layout, curtilages have been designed to interface with the fields to include hedgerows. A significant degree of trees, landscaping and grass would be incorporated within the site which would result in a net gain for the area.
- 132 The application site is currently fairly un-tidy and has an appearance of neglect. The proposal would provide the opportunity improve the defined hedgerows and provide landscape management. Field gates to properties, brick walls, clay pavers, flint gravel paths, hot rolled asphalt with limestone chippings would be implemented. The materials for the landscaping would reflect the character and tonality of the area. The proposal would remove the neglected and untidy character of the site and enhance the landscape.
- 133 Residential development and glazing does result in light admittance into the AONB. However, the large glazing is design to reflect the large openings associated with the agricultural buildings and maintain the impression on the surrounding landscape.
- 134 Some mitigation measure for light admittance could be secure via condition. In addition, the removal of the rights for external lighting without prior consent could be conditioned upon approval to limit the impact. While vehicle headlight may add a degree of light to the area, given that Hartfield Road is a classified 'B' road vehicles can utilise the area and park on site.
- 135 The proposal is considered to conserve and enhance the AONB landscaping and would comply with policy EN5 and LO8 of the ADMP and Core Strategy.

Impact to the design and character of the area

- 136 Policy SP1 of the Core Strategy and Policy EN1 of the ADMP state that all new development should be designed to a high quality and should respond to and respect the character of the area in which it is situated.
- 137 Hartfield Road is a long road which cuts through the rural countryside surrounding Edenbridge. A number of small settlements including Markbeece, Chiddingstone Hoath and Cowden are located in the vicinity. A number of small groups of residential dwellings can be observed while traveling along this road a number of which are converted farmsteads.
- 138 Policy SP7 of the Core Strategy recommends that housing development in rural locations should achieve a density of 30 dwellings per hectare (dph). The proposed development would result in 8dph. The site appears to have a dense environment. However, the dwellings would have a large scale and

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footprint due to the conversion. The pattern of the development would not be dissimilar to Pylegate located to the north of the site.

- 139 The application site is formed of a farmstead with a number of modern agricultural buildings. To the opposite side of the road Pylegate has previously been subject to conversion of a former agricultural unit. A large scale modern agricultural barn is also located within Pylegate.
- 140 The character in the immediate vicinity has links to agriculture with varying design, form and massing. The site is surrounded by wide open countryside and the irregular field patterns typical of the area. The existing barns form a distinct part of the character of the area.
- 141 The proposed conversion of the agricultural units would result in some demolition of the built form. However, the overall bulk, scale and massing of the built form would be retained as would its impression on the character of the area. The distinctive semi-circular roof form of barn 4 would be maintained and the low pitched gabled roofs of the other barns retained.
- 142 The buildings would see formalisation which would provide a greater appearance of permanency. The formal timber cladding would be reflective of the former use of the buildings and the metal roofing would retain the form functionality of the built form. This would retain the character of the site in maintaining the modern agricultural form, massing and appearance.
- 143 The proposed openings, including windows and doors, would have irregular patterns with wide open glazed panels. The pattern of glazing would work to reflect the scale and use of the built form and prevent the regular and balanced proportionate window details often found on sub-urban residential dwellings.
- 144 The proposed development would result in the formalisation of the site including formal hard standing and residential paraphernalia. While this would alter the existing informality of the site, given the sites proximity to an existing residential area (Pylegate). Residential use is therefore associated with the character of the area. Although Pylegate is sheltered by the slight drop in levels, the proposal includes a large degree of landscaping which would aid in settling the development into its surrounds.
- 145 The proposed development is considered to retain the character of the area and would comply with policy EN1 of the ADMP.

Impact to neighbouring amenity

- 146 Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing and future occupiers of the development.
- 147 Claydene Farmhouse is located to the north west of the application site and was connected to the farm unit. The farmhouse has been granted planning permission for extensions and refurbishment under application, 19/02252/HOUSE.

- 148 The closest dwellings would be converted barns 6 and 5. The other converted units would be located at a sufficient distance that they would not cause a loss of amenity.
- 149 Barn 6 would be located within 3 - 5m of Claydene Farmhouse. The barn already exists and although the built form would become more substantive the general proportions of the building would be retained. As a result, the proposal would not result in further significant losses of daylight and or sunlight.
- 150 As a result of the built form already existing and being converted, visual intrusion to outlook would not be further comprised to a significant degree.
- 151 The rear elevation would sit against the private 5m amenity space of the farmhouse, however the proposal would not contain any windows facing directly into this space. The side windows would include French doors to a bedroom/living area. The direction of view would look into amenity space of Claydene Farm, although oblique. Details of a boundary treatment to prevent significant overlooking could be secured. The openings at ground floor could be mitigated by a form of enclosure secured by condition.
- 152 Barn 5, located further to the south of barn 6's, windows would not face directly onto the 5m rear amenity space of Claydene Farmhouse. The proposal would be for a single storey dwelling and as such a loss of privacy would not occur. The barns siting would mean it would not result in significant loss of daylight/sunlight or result in significant visual intrusion to neighbouring outlook.
- 153 Becketts is located to the north of the application site on the other side of Hartfield Road. A distance of approximately 27m extends between Becketts and the nearest converted barn. As a result of this distance, the fact the built form already exists, the interspersions of the road and the height of the proposed conversion would not result in a significant loss of daylight/sunlight to Becketts.
- 154 As a result of the separation between the proposed units and Becketts and the existing nature of the built form, which is to be converted and not extended, visual intrusion to outlook would not occur to a significant degree. As highlight planning cannot protect a view.
- 155 The closest converted barn to Becketts would be barn 6, which would include three openings plus roof lights facing towards Becketts. Due to the distance in excess of 21m and the interspersions of the road a significant loss of privacy would not occur as a result. The other conversions across the site are set further to the south east and would not have direct views. A significant loss of privacy would not therefore occur.
- 156 Hazelden is located to the north of the site within the Pylegate Farm complex. Approximately 48m extends between Hazelden and barn 6 and 70m between barn 4 (to include 4a, b and c) and Hazelden. Due to the distance between the development and Hazelden, the road which intersects

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between and the existing nature of the built form a further significant loss of daylight/sunlight would not occur as a result of the conversion.

- 157 Due to the distances that separate the development from Hazelden visual intrusion to outlook would not occur to a significant degree. The built form would be visible from Hazelden, and the conversion would certainly provide a more substantive appearance to the buildings. However, planning legislation cannot protect a view and views could still be gained from Hazeleden.
- 158 The proposed development change of use to residential would result in a more permeant and habituated site. Proposed barn 4 would consists of three dwellings with large openings to the front elevations and would provide views. However, barn 4 is offset from Hazelden and Pylegate as a whole. The distance between the development and the residential dwellings at Pylegate would mean significant overlooking would not occur.
- 159 Although the site is located in a rural environment, previous conversions, particularly as seen in Pylgate have led to pockets of denser development. As a result there is already a degree of mutual overlooking which occurs in the area.
- 160 As a general rule a distance of 21m is considered sufficient to ensure that a significant loss of amenity would not occur. Planning is unable to protect a view and transport issues would be considered under the highways section of this report. As such other dwellings including those within the Pylegate complex and dwellings to the south east and north- west would not suffer a significant loss of amenity.

Proposed dwellings

- 161 The proposed conversion would result in the creation of 9 units. All of these units would contain at least dual outlook. The result of this would ensure sufficient outlook would be provided for all of the proposed units. In addition, the proposed openings would allow for sunlight/daylight to filter into the dwellings providing natural light.
- 162 All of the properties would have a degree of private amenity space, although somewhat mutually overlooked this is to be expected of such a development. The degree of amenity space would vary from property to property. The site is directly located adjacent to a public right of way which gives access to the open countryside.
- 163 The proposal would be comprised of 9 units and a degree of mutual overlooking would occur, however this would be within acceptable limits. Barns 5 and 6 would not directly overlook one another as the flank elevation of barn 5's openings would be infilled. Barn 5 would contain openings facing towards barn 2, however these would be secondary outlook points and would be located in excess of 18m from barn 2. Barn 2 would contain large openings however at first floor this would serve a landing which is non-

habitable space. As such, the distance would be acceptable to maintain privacy.

- 164 Barn 2 elevation facing towards barn 1 would contain some openings all of which would be non-habitable spaces at ground floor and could be obscure glazed and fixed shut to prevent mutual overlooking. Barn 1 openings at first floor would have view towards the private amenity space of Barn 2. However, due to internal voids the overlooking would be oblique.
- 165 Barns 3(b) and 3(a) would have mutual overlooking, however this is to be expected of semi-detached properties and the views again would to a degree be oblique. Barn 1 and 3 would be offset from one another and significant overlooking would not occur.
- 166 Barn 3(b) would be sited adjacent to barn 4(a). At ground floor the barn 3(b) would include openings to serve a study and hallway, these could be obscure glazed and fixed shut to prevent mutual overlooking as they are non-habitable spaces. At first floor 3(b) would be offset from the main bulk of barn 4(a) and the windows would serve an en-suite and dressing room which could be obscure glazed and fixed shut to prevent loss of privacy.
- 167 Barn 1 and 4 would face towards one another. Barn 4s southern elevation at ground floor the openings would serve studies/hallways and utility rooms all of which are non-habitable spaces. To prevent overlooking these could be obscure glazed up to 1.7m from finished floor level. At first floor barn 1 has a limited first floor provision. The inset balconies would provide oblique views only and the narrow first floor windows serving habitable rooms would not provide a significant sense of overlooking.
- 168 Overall the proposed dwellings subject to condition would provide adequate amenity provision.
- 169 The proposed development, subject to condition, would not result in a significant loss of amenity and would be considered to comply with policy EN2 of the ADMP.

Impact to highways and parking

- 170 Policies EN1, T1 and T2 states that all new development should provide satisfactory means of access for vehicles and pedestrians and provide adequate parking.
- 171 The application site is located along Hartfield Road which is subject to a 50mph speed limit. The site does benefit from an existing access, but this would be blocked off and a revised access created. The Highways Officer is satisfied with the revised access and visibility splays of 2.4x115m with no obstruction above 0.6m. The splays would be conditioned upon any grant of permission.
- 172 The revised width of the access to 5.5m with a junction radii of 10.5m. The tracking has indicated some encroachment on the opposite side of the road,

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however the Highways Officer is deems this acceptable. The access route into the site provides a width of 4.8m which allows vehicles to pass one another.

- 173 KCC Highways commented on the application and revised plans were received. The Officer has commented that the site would provide sufficient parking with 17 parking spaces made available in line with policy IGN3. The development would also provide sufficient cycle parking. As part of the revisions provided, the Highways Officer is satisfied that sufficient parking for visitors has been provided.
- 174 There is sufficient space on site for the storage of refuse and due to the revisions the proposal would provide sufficient access for refuse vehicles in accordance with KCC Highways considerations.
- 175 The proposal would not increase traffic in the area to a significant degree. The KCC Highways Officer is satisfied with the proposal, in accordance with paragraph 109 of the NPPF which only allows refusal which results in a severe impact to the highway.
- 176 Policy T3 of the ADMP states that electrical vehicle charging points should be provided within new residential developments to promote sustainability and mitigate climate change. Vehicle charging points would be required via condition upon any grant of permission.
- 177 The proposal is considered to comply with highway policy.

Other

Affordable housing

- 178 The application site exceeds 0.5 hectares and represents a major development. As such, and in accordance with the guidance of the National Planning Policy Framework and Policy SP3 of the Sevenoaks District Council Core Strategy an affordable housing contribution shall be sought.
- 179 The applicant has agreed to the provision of an affordable housing contribution and as per the present resolution and agreement as to its form would be reached prior to issuing any decision to grant the planning application. This could take the form of on site or an off-site contribution.

Biodiversity

- 180 Policy SP11 of the Core Strategy states that the biodiversity of the District will be conserved and opportunities sought for enhancements to ensure no net loss of biodiversity.
- 181 The applicant has provided various ecology reports to support the application, including a protective species report. The KCC Ecological Officer was consulted on the planning application and has suggested a number of conditions upon the grant of any planning permission.

- 182 The submitted reports have identified that four of the barns on site have bat roosting potential, although no bats were found to emerge from these buildings. In line with the report's recommendations the application would be conditioned to ensure that if development had not occurred within 2 years further bat surveys would be submitted. To ensure the development does not significantly affect habitat a lighting strategy would also be required via condition.
- 183 A number of ponds are located within 250m of the site, including 1 on site. Great Crested newts have been found within a number of these ponds. In accordance with the Habitats Directive it must be considered if an EPSM Licence from Natural England would be granted. The test is formed of three parts and KCC Ecology are satisfied that that the third part of the test has been satisfied.
- 184 In regard to the first two parts of the test the proposal is considered compliant with local and national planning policy and would result in the provision of additional housing in accordance with the aims of the NPPF. In regard, to the second part of the test mitigation and compensatory measures have been put forward. The local authority is satisfied that the three parts of the test have been provided.
- 185 To ensure that the local badger, fox and rabbit population is not adversely affected a condition securing a method statement for the development could be secured prior to any grant of permission.
- 186 The submitted report identifies that Barn Owls have infrequently used the site and suitable habitat exists to support Barn Owls. A condition to ensure mitigation and compensation would be provided subject to any grant of planning permission.
- 187 In regard to the proposed works to the hedging and grassland on site the KCC Ecology Officer has advised further information would be required. A condition prior to the commencement of development could ensure that relevant surveys and mitigation measure be put in place to secure both habitat and mitigation of any loss as with the method statements to protect mammals.
- 188 In line with policy SP11 details of ecological enhancements would need to be submitted and approved in writing to ensure the scheme provides a net gain on site.

Trees and landscaping

- 189 The SDC Tree Officer has identified that no protected trees are located on the site. The site in addition, is not located within a Conservation Area for which any formal protection of trees is in place.
- 190 The Tree Officer has identified that principle trees located at this site are all situated besides the pond including a mature willow and a young Oak

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tree. A number of buildings are to be demolished as the officer advises and these would be located close to the aforementioned trees.

- 191 The barns 7 and 8 are to be demolished primarily for the purposes of a different application previously granted, 19/02252/HOUSE. However, to ensure protection of the trees a condition setting out protection measures and method statements for the impact to the trees could be applied upon any grant of permission.
- 192 The applicant has provided a comprehensive landscaping scheme, as mentioned in the AONB section of this report. The landscaping scheme proposed a significant addition of trees across the site, in addition to hedging, lawn and grassland meadow. This would be a significant enhancement to the current state of the site.
- 193 The landscaping, as indicated on plan 161Rev A identifies a number of native species planting, which accord with national and local planning policy. The landscaping would be conditioned, although the condition would for some changes due to ecology requirements.

Area of Archaeological Potential

- 194 The application site is located within an area of archaeological potential. The KCC Archaeological Officer was consulted on the application and considers that the farm complex is identified as a farm that may have medieval or even earlier origins. As some remnants of these may still exist on site, two conditions would be placed on any grant of permission to ensure that any remains are recorded.

Drainage

- 195 The applicant has submitted a drainage strategy with the proposal which would be secured by condition. The Lead Local Flood Authority is satisfied with the drainage scheme and has requested an additional condition securing a maintenance schedule which could be conditioned as part of the application.
- 196 The Lead Local Flood Authority has noted that treated foul water would be discharged into the existing ditch and advised that the Environment Agency (EA) be consulted. The EA was consulted but offered no comment on the application. A condition with further details on the discharge of foul water could be applied to any grant of permission. The Lead Local Flood Authority have no objection to the proposal.

Public Right of Way

- 197 A Public Right of Way runs through the site to the south. A Public Right of Way Officer has not commented on the application despite consultation. The right way would cross the ownership of one of the plots of land. It is an offence to obstruct a public right of way and diversion may need to be

secured with KCC Public Rights of Way team. This would be a matter for the applicants and KCC Public Rights of Way.

Other issues - Third party comments

Levels of development locally

- 198 Third party comments have raised concerns with the level of granted planning permissions in the local vicinity. Each individual planning application has to be considered on its own merits and the local planning authority is under an obligation to review applications submitted.

Major application

- 199 Third parties consider that the planning application should be defined as a major. The application has been considered as a minor major application.

Provision of additional housing

- 200 Third party comments have identified that new development are still in the process of selling housing stock and as a result additional housing is not required. The local planning authority again has an obligation to consider proposal submitted and in their own individual context.

Local amenity provisions

- 201 Third party comments have raised concerns that the proposal for 9 new dwellings would impact the local facilities including school places and local parking. The development has been found compliant with parking standards and the provision of CIL payments would contribute to local infrastructure.

Community Infrastructure Levy (CIL)

- 202 The application is CIL liable.

Conclusion

- 203 The proposal is considered principally acceptable. The proposal would preserve the open character of the Green Belt, conserve and enhance the AONB, retain the character of the area, preserve amenity and comply with highways policy. The proposal is considered policy compliant.
- 204 It is therefore recommended that this application is GRANTED.

Background papers

Site and block plan

Contact Officer(s):

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Richard Morris
Chief Planning Officer

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PWWK9TBKJ2500>

