

**LAND AT ASHFORD
ROAD, MAIDSTONE**

FULL STATEMENT OF CASE

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1 INTRODUCTION

1.1 Wates Developments ('The Appellant') is seeking to appeal the decision of Maidstone Borough Council ('MBC or 'The Council') to refuse planning permission for development of Land at Ashford Road, Maidstone ('The Site').

1.2 Planning Permission was sought for employment development of the Site, in particular, the development of the Site for much-needed logistics development.

1.3 The Planning Application was refused by the Council for three reasons. We will set out why these should not be sustained and why planning permission should be granted subject to appropriate conditions and obligations.

1.4 This Statement addresses the three reasons for refusal and sets out the Appellant's case that it will be making at the inquiry.

1.5 It also sets out further responses to other matters which may be of interest.

1.6 It further addresses other relevant cases and guidance that the Appellant may rely on when providing its full evidence.

1.7 This Statement is set out as following:

- Section two addresses the background to the Application;
- Section three addresses the application and the consultation responses;
- Section four considers the reasons for refusal;
- Section five addresses other matters including the development plan position;
- Section six provides some administrative matters; and
- Section seven provides a summary and conclusions.

1.8 This Statement should be read in conjunction with the Draft Statement of Common Ground provided by the Appellant as well as the Planning Application documents provided with the Application.

1.9 The Planning Inspectorate guidance is that Statements of Case should not exceed 3,000 words and we have sought to keep within this limit, albeit, it has slightly been exceeded in order to ensure that the Appellant's case is clear.

2 BACKGROUND

2.1 The Appellant

2.1 The Appellant is Wates Developments Ltd. Wates is a large family-owned business operating mainly across the south-east of England seeking to promote land for development, including mixed-use and employment land.

2.2 Wates has been promoting the Site since 2019 and considers that the use of the Site for industrial is appropriate given the location of the Site, the neighbouring uses as well as the Council's evidence base for the Local Plan Review.

2.2 Pre Application

2.3 The Site subject of the Appeal was included within the Leeds – Langley 'area of search' for a new settlement at the Regulation 18 consultation stage of the Local Plan Review.

2.4 The Appellant sought pre-application advice from the Council prior to the submission of the Application. The Council's view was that the Site was not suitable for development due to the effects on the Area of Outstanding Natural Beauty ('AONB') and that there was no need for a countryside location.

2.5 The Appellant took on the pre-application advice and re-designed the scheme to provide a sensitive, landscape-led scheme which it considers respects the setting of the AONB, particularly given the location of the Site – surrounded by major roads on three sides and the recent industrial development of Woodcut Farm on the other side.

2.6 The Appellant has also provided evidence on the need for the logistics development especially in this location. The Appellant also contends that the size of the development addresses a specific need which has not been met in Maidstone either through the grant of consents or through the Local Plan process.

3 THE APPLICATION

3.1 Application Documents

3.1 The Application was submitted by Avison Young ('AY') on behalf of Wates on 17 February 2023 and accepted by the Council on 21 February 2023. The Application was formally validated by the Council on 9 March 2023.

3.2 The Application was accompanied by these key documents:

- Planning Statement – CD1.1
- Landscape and Visual Impact Assessment – CD1.2
- Photomontages – CD1.3
- Design and Access Statement - CD1.4
- Transport Assessment - CD1.5
- Economic Needs Assessment – CD1.6

3.3 In terms of plans, the Application was accompanied by several plans for determination as part of the Application and illustrative material:

- Site Location Plan
- Block Plan
- Proposed Site Access Arrangements
- Illustrative Master Plan
- Landscape Master Plan

3.4 During the determination of the Application, several updates and amendments were submitted to the Council, including:

- Landscape and Visual Impact Addendum – CD1.7
- Traffic Impact Addendum – CD1.8

3.5 In addition, there was significant correspondence between the Appellant's highway consultants and National Highways which resulted in the removal of their objection to the grant of consent.

3.2 Consultation Responses

3.6 Two local residents objected to the grant of consent. In terms of statutory responses, the following would be relevant to the Appeal:

- National Highways – CD2.1
- Kent County Council Highways – CD2.2
- Kent Biodiversity 14 June 2023 – CD2.3
- Economic Development – CD2.4
- Kent Ecology 31 May 2023 – CD2.5
- Kent Minerals – CD2.6
- Kent Ecology 20 April 2023 – CD2.7
- Southern Water – CD2.8
- Environmental Protection – CD2.9
- Lead Local Flood Authority – CD2.10

- Natural England – CD2.11
- Kent Archaeology – CD2.12
- HSE – CD2.13
- Hollingbourne Parish Council – CD2.14

3.7 In addition, responses from non-statutory consultees were received including:

- Kent Downs AONB Unit 31 March 2023 – CD2.15
- Kent Down AONB Unit 30 May 2023 – CD2.16

3.8 The Application was refused planning permission on 28 July 2023 for three reasons. The Decision Notice ('DN') can be found at CD 2.17 and the delegated Officer Report ('OR') can be found at CD 2.18.

4 REASONS FOR REFUSAL

4.1 Reason for Refusal 1

4.1 Reason for refusal 1 ('RFR1') states: *"There are no Maidstone Borough Local Plan 2017 policies that allow for major employment development outside of designated economic development areas, site allocations, or upon undeveloped greenfield land falling within the countryside. The proposals are therefore contrary to the Spatial Strategy (policy SS1) of the Maidstone Borough Local Plan and policy SP21 for the location of economic development"*.

4.2 Policy SS1 of the Local Plan ('LP') sets out the spatial strategy for the Borough and covers the period 2011 to 2031. The Plan sets out that permissions and allocations will deliver circa 40,000 sqm of office space, circa 20,000 sqm of industrial space and circa 50,000 sqm of warehousing space.

4.3 Bullet point 4 sets out that: *"A prestigious business park at Junction 8 of the M20 that is well connected to the motorway network will provide for a range of job needs up to 2031. The site will make a substantial contribution to the need for new office space in the borough as well as meeting the 'qualitative' need for a new, well serviced and well connected mixed use employment site suitable for offices, industry and warehousing, and will thereby help to to [sic] diversify the range of sites available to new and expanding businesses in the borough"*.

4.4 There is no doubt that the Appeal Site is located at junction 8 of the M20 and that the Site is well connected to the motorway network. There is also no doubt that the Appeal Scheme would complement the neighbouring development at Woodcut Farm and offer complementary development and further employment opportunities thus assisting in creating the vision of a prestigious and high-quality development that would provide a mix of uses.

4.5 Therefore, whilst the Site is not formally allocated for development in the Local Plan, it would meet its strategic objectives and the overall spatial strategy.

4.6 Policy SP21 states that *"The council is committed to supporting and improving the economy of the borough and providing for the needs of businesses"*. The Appellant will make the case that granting consent for the Appel Scheme would do exactly that. In terms of criteria set out in the Policy, the development would meet criteria iv. In terms of criteria viii this states that *"Supporting proposals for the expansion of existing economic development premises in the countryside, including tourism related development, provided the scale and impact of the development is appropriate for its countryside location, in accordance with policy DM37"*. This approach is supported by the Economic Development team within the Council (CD2.4).

4.7 Whilst the Site is technically located in 'countryside' the Appellant will make the case that the Site has significant urbanising characters including the neighbouring development at Woodcut Farm, the road network and associated paraphernalia, and other development in the surrounding area. This character has to be considered when assessing whether the scale and impact of the development is appropriate.

The Appellant will set out that the Appeal Scheme is wholly appropriate to this location and meets assessed needs that cannot be accommodated elsewhere.

4.8 As such, the Appellant will set out that the Appeal Proposals are generally in accordance with Policy.

4.9 As to Policy DM37, this sets out several criteria that should be met. It is accepted by the Appellant that the building to be provided is not 'small in scale' however the Appellant's view is that the development when considered as a whole is appropriate and will integrate into the landscape. There would not be any other significant adverse effects in accordance with this Policy. As such, compliance with this Policy can be secured.

4.10 Overall, the Appellant will set out that the RfR1 cannot be sustained.

4.2 Reason for Refusal 2

4.11 The Council's second reason for refusal ('RfR') sets out "*The development would cause significant harm to the character and appearance of the countryside and landscape within the local area through its site coverage and scale, further consolidation of development and urbanisation in the vicinity, and prominence in local views. It would also have a significant adverse impact on the setting of the Kent Downs AONB in views towards the scarp slope from Old Mill Road to the south. This would be contrary to policies SP17(1) and (4) and DM20(ii) of the Maidstone Borough Local Plan 2017, policy SD8 of the Kent Downs AONB Management Plan and paragraphs 174(a) and (b) and 176 of the NPPF*".

4.12 This RfR is divided into two separate elements: local landscape impact; and impact on the setting of the AONB.

4.13 In terms of the local landscape impact, there are two elements: landscape effects; and visual effects. In terms of landscape effects, the Appellant's view is that the Site is already significantly influenced by urbanising features and that this materially affects the character of the Site. There will inevitably be change to the landscape character by the development, however, this would be limited in scale and would be seen within the wider context. As such, it will be the Appellant's case that the change to the landscape character would not be significant.

4.14 In terms of visual effects, it will be contended by the Appellant that all greenfield development would have adverse effects. The question is whether these effects are so significant in the wider area. The Appellant will contend that the Site has limited visibility in the wider area and that the majority of the adverse effects would be realised in very close proximity to the Site. As such, in both landscape and visual terms, the effects would not be significant.

4.15 As to the effects on the setting of the AONB, the Appellant will set out that whilst there would be change in the view from Old Mill Lane, this would not be significant when considering the urbanising character of the Site as well as the development proposals (including mitigation). The Appellant will provide further views demonstrating the effects of the development on this view. The Appellant will note that the Council does not contend that there are any material effects on the

views from the AONB, but rather that it is views from locations further away from the AONB that are affected. The Appellant will demonstrate that whilst there is change to the view towards the AONB however this would be seen in the wider context of the infrastructure associated with the roads and other development. The Appellant will also note that whilst this view is from a public footpath, the footpath is not well used and therefore the number of users that would be affected by the change would be limited.

4.16 The Appellant will accept that the Site is located within the setting of the AONB however will make the case that the Site is not valued landscape.

4.17 The Appellant will demonstrate that whilst there would be some adverse effects, mitigation in the form of landscaping (which will mature over time) as well as other Green Infrastructure ('GI') would limit these adverse effects to the level that they would not be considered to be significant.

4.18 In terms of the planning policies that the Council refers to in its reason for refusal, Policy SP17(1) requires developments to not have any harm to character and appearance of an area. The Appellant will set out that this Policy is clearly out-of-date and does not reflect the more nuanced approach required by the NPPF. The Appellant will also set out that it would be frankly impossible to comply with such a policy. In any case, the Appellant will set out that the Appeal Scheme has been sensitively developed as a landscape-led scheme which seeks to respect the character and appearance of the area.

4.19 As to SP17(4), the Appellant will set out that there would not have a significant adverse effect on the setting of the AONB.

4.20 The Council refers to the Kent Down AONB Management Plan 2021 – 2026 (CD3.3). The Appellant agrees that this document is a material consideration in the determination of this Appeal. SD8 sets out that "*Ensure proposals, projects and programmes do not negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the Kent Downs AONB*". The Appellant will set out evidence on the effects of the development on the setting of the AONB and views to and from the AONB and will demonstrate that the effects of the Development would not be significant.

4.21 The Council also refers to Policy DM20(ii) however this relates to community facilities and is not relevant to this case. Should the Council seek to rely on another policy, the Appellant reserves the right to respond to this through a further submission and may make further representations as to the lawfulness of such an approach.

4.22 Finally in relation to this RfR, the Council alleges a breach of NPPF paragraphs 174(a), 174(b) and 176. As already noted, it is the Appellant's case that the Site is not valued landscape and therefore paragraph 174(a) does not apply to the determination. As to paragraph 174(b), the Appellant will set out evidence that Site is influenced by significant urbanising infrastructure and that the Development would be appropriate to this location. In terms of paragraph 176, the Appellant will

set out that the Appeal Scheme is sensitively located and designed to minimise wider effects on the setting of the AONB.

4.23 Overall, the Appellant will conclude that the Appeal Scheme complies with the policies set out.

4.3 Reason for refusal 3

4.24 The third reason for refusal relates to the lack of a legal mechanism to secure 10% Biodiversity Net Gain ('BNG'). The Appellant is confident that this matter can be addressed prior to the Inquiry and will work with the Council to address this matter.

4.4 Conclusions

4.25 The Appellant considers that the Council's reasons for refusal cannot be sustained and that the overall balance weighs in favour of the grant of consent.

5 OTHER MATTERS

5.1 Development Plan

5.1 The Appellant will set out the relevant documents that form the basis of the development plan for the determination of this Appeal.

5.2 The Appellant will note that the Maidstone Local Plan Review ('LPR') (CD3.2) is current subject of examination and that it is likely that consultation on Main Modifications will take place in autumn 2023. The Appellant will note that the OR considered the emerging LPR and considered that limited weight should be afforded to it. The Appellant will set out that the Council did not consider that any policies of the LPR would be breached by the Appeal Scheme. The Appellant will also note that the Council did not allege any issues of prematurity in terms of the Appeal Proposals.

5.3 The Appellant will also refer to the Kent Mineral and Waste Local Plan (CD3.4) and note that the mineral authority does not object to the grant of consent.

5.2 Planning Balance

5.4 The Appellant will consider whether paragraph 11 of the NPPF applies to the determination (i.e. the so-called 'tilted balance'). The Appellant will provide evidence on both the need and demand for the Development. The Appellant will refer to its representations to the LPR Examination in Public and set out that the LPR will not meet either the immediate need and / or demand for large logistic developments. The Appellant will also set out that there are no other proposals before the Council that can accommodate either this need or demand.

5.5 The Appellant will also review the proposed allocations in the LPR and set out why these are not suitable or available to meet either the need or demand.

5.6 The Appellant will consider other matters such as the agricultural land value, effects on dark skies, highway effects and sustainability, noting that these are not matters which the Council considers should lead to refusal of permission for the Development.

5.7 The Appellant reserves the right to provide further evidence on matters that may be raised by any third parties and also reserves the right to call witnesses to address such matters.

5.8 The Appellant will set out that **substantial** weight should be afforded to the economic benefits and that any harm is more limited in scale. The Appellant will also set out that the sustainable location of the Development, the sustainability measures incorporated within the Scheme as well as the other benefits, all weigh in favour of the grant of consent.

5.9 The Appellant will conclude that the benefits of the Scheme outweigh the harms and that consent should be granted subject to appropriate conditions and obligations.

6 ADMINISTRATION

6.1 The Appellant has set out in a separate note why it considers that the only method of determining this Appeal is through a public inquiry (Annexe K Statement).

6.2 The Appellant considers that it would need to call as a minimum three witnesses covering matters:

- Landscape
- Economic need
- Planning balance

6.3 The Appellant reserves the right to call other witnesses should other matters emerge.

6.4 In terms of length of inquiry, the Appellant considers that four days would suffice, however this may require further consideration should any third parties seek Rule 6 status.

7 SUMMARY AND CONCLUSIONS

7.1 The Appellant considers that the decision of the Council to refuse consent for significant economic development at Ashford Road, Maidstone cannot be sustained in light of the significant and numerous benefits compared to the more limited adverse effects.

7.2 The Appellant will set out that the Council has inflated the effects of the Development on the wider landscape and views as well as the setting of the AONB. The Appellant will set out that the Council's approach to the categorisation of the Site cannot be sustained in light of the location of the Site and the significant and numerous urbanising effects on it which already detract from its character.

7.3 The Appellant will set out that the approach of the Council to the Appeal Scheme cannot be sustained in light of its approach to the neighbouring Woodcut Farm site as well as more recent permissions on that site.

7.4 The Appellant will further set out that there is immediate need and demand for developments such as the Appeal Scheme and that neither the existing Local Plan nor the Local Plan Review provide the required response to either the need or demand.

7.5 The Appellant will conclude that the significant and numerous benefits outweigh the more limited harm.

7.6 As such, the Appellant will request that the Appeal is allowed subject to the imposition of appropriate conditions and obligations.