

**TOWN & COUNTRY PLANNING ACT 1990**

**APPEAL**

**by**

**Wates Developments**

**AGAINST**

**The refusal of the Maidstone Borough Council to grant outline planning consent for the erection a building for storage and distribution (Class B8 use) with a floorspace up to 10,788sqm (Gross External Area), ancillary offices, associated car parking, HGV parking, landscaping and infrastructure (All matters reserved except for access).**

**at**

**Land North of the A20, Ashford Road, Hollingbourne, Kent, ME17 1XH**

**REFERENCES:**

**Planning Inspectorate: APP/U2235/W/23/3329481**

**Local Planning Authority: 23/500899/OUT**

**Proof of Evidence**

**of Richard Timms, BA (Hons) MA TCP MRTPI**

**December 2023**

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## 1.0 AUTHOR

- 1.01 My name is Richard Timms, I hold a Bachelor of Arts and Masters degree in Town and Country Planning from the University of Manchester and I am a Chartered Member of the Royal Town Planning Institute.
- 1.02 I hold the position of Principal Planning Officer within the Development Management section of Maidstone Borough Council (MBC). I have been employed by MBC in the Development Management section for 20 years. I have considerable experience of advising and determining planning applications for a wide range of developments including large-scale housing and commercial developments. I also have considerable experience in dealing with applications affecting the countryside and the setting of the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.03 I was the case officer for the appeal application and was the author of the officer report. I am familiar with the appeal site and surrounding area and have undertaken several detailed site inspections.
- 1.04 I provide evidence in this appeal on behalf of the Council on planning matters.
- 1.05 The evidence which I have prepared and provided for this appeal is given in accordance with the guidance of my professional institution. The opinions expressed are my true and professional opinions.

## 2.0 SCOPE OF EVIDENCE

- 2.01 This Proof of Evidence should be read in conjunction with the evidence provided by Mr Peter Radmall on landscape matters; and Mr Matthew Kinghan on employment land supply and need. I rely on their evidence on these issues in my own evidence.
- 2.02 My evidence covers *inter alia* planning matters not covered by the other expert witnesses for the Council, including the overall planning balance for the appeal proposal.
- 2.03 In my evidence, I defer to the Statement of Case (SoC) and agreed Statement of Common Ground (SoCG), which provides:
- Description of the Appeal Site and Surrounding Area
  - Planning History of the Appeal Site and the Woodcut Farm Site
  - Description of the Proposed Development
  - Agreed Matters
  - Matters Not Agreed

### **3.0 PLANNING POLICY**

- 3.01 In accordance with Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 this appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 3.02 The development plan comprises the Maidstone Borough Local Plan 2017 (MBLP) [CD3.1] and the Kent Minerals and Waste Local Plan (KMWLP) [CD3.4].
- 3.03 The emerging Local Plan Review (LPR) is also relevant and referred to due to its advanced stage where adoption is anticipated in early 2024.

#### **Maidstone Borough Local Plan 2017 (2011-2031)**

- 3.04 The following policies are considered to be those that are most important to the determination of the appeal:
- Policy SS1: Maidstone Borough Spatial Strategy  
Policy SP17: Countryside  
Policy SP21: Economic Development  
Policy DM30: Design Principles in the Countryside
- 3.05 It is common ground that policies SS1, SP17 and SP21 are the most important policies. I consider that policy DM30 is also one of the most important policies but this is not agreed with the appellant.

#### **Policy SS1 (Maidstone Borough Spatial Strategy)**

- 3.06 Policy SS1 is a strategic policy that sets out the spatial strategy for the MBLP and sets out the quantities of housing, employment, and retail uses required.
- 3.07 In the explanatory text to the policy, paragraph 4.13 of the MBLP (page 15) sets out the net requirement for employment floorspace under Table 4.4 as follows with a total net

requirement of 32,565m<sup>2</sup> for offices and warehousing:

	Offices	Industry	Warehousing
Gross requirement m <sup>2</sup> (2011-31)	39,830	20,290	49,911
<b>Net requirement m<sup>2</sup> (2011-31)</b>	<b>24,600</b>	<b>-18,610</b>	<b>7,965</b>

3.08 The policy sets out the spatial distribution of development at the most sustainable locations with a focus on the urban area of Maidstone town and with a settlement hierarchy as follows:



3.09 All tiers of the hierarchy have defined settlement boundaries as shown on the MBLP policies map which sits alongside the Plan.

3.10 Policy SS1 (page 19 of the MBLP) itself sets out the gross quantity of the development to be provided (criteria 1) and states that land allocations that contribute towards meeting these development requirements are identified in the MBLP policies map (criteria 2).

3.11 Criteria 4 refers to a 'business park at Junction 8 of the M20' motorway and how this will

make a substantial contribution to the need for new office space in the Borough as well as meeting 'qualitative' need for new, well serviced and well connected mixed use employment for offices, industry and warehousing. This is a reference to MBLP allocation EMP1(4) which is defined on the policies map and is to the immediate north of the appeal site and can be seen at [CD3.6]. This allocation is discussed in detail at paragraphs 4.225 to 4.235 (pages 108-110) of the Maidstone Borough Local Plan and the site is stated to meet the 'qualitative' need for a new, well serviced and well connected mixed use business park.

- 3.12 Other references to employment provision are under criteria 5 being 'suitably scaled employment opportunities' within the 'rural service centres', and criteria 8 being 'small scale employment opportunities at appropriate locations to support the rural economy'.
- 3.13 Policy SS1 was found sound at the MBLP Examination against the 2012 version of the NPPF. It is considered to be consistent with the latest version of the NPPF (2023) (paragraphs 17, 20 to 22) in setting out an overall strategy for the pattern and scale of development for Maidstone Borough between 2011 and 2031 and does not place a cap on employment floorspace. This policy is considered to be up to date and carries full weight.

### **Policy SP17 (Countryside)**

- 3.14 Policy SP17 is a strategic policy that defines the countryside for Local Plan purposes, sets out what development can be allowed within it, with reference to other policies in the plan, sets out the protection afforded to nationally designated and locally valued landscapes in the Borough, and the protection afforded to the general countryside.
- 3.15 The explanatory text at paragraph 4.95 of the MBLP (page 65) states that, "*the countryside is defined as all those parts of the plan area outside the settlement boundaries of the Maidstone urban area, rural service centres and larger villages with defined settlement boundaries*".
- 3.16 Paragraphs 4.96 to 4.99 (pages 65-66) relate to the rural economy and Maidstone's rural economic character with reference to small businesses being a particular feature of rural areas, agriculture, re-use of former farm buildings for commercial uses, tourism, and

recreation. At paragraph 4.99 (page 66) it is stated that,

*“The local plan will continue to recognise the importance of supporting small-scale rural business development. Its priority is to locate these businesses within the defined rural service centres. However, there are employment sites already located outside these settlements and it is important to offer these businesses a degree of flexibility.”*

3.17 Paragraph 4.105 (page 67) relates to ‘design’ and states,

*“The countryside is a sensitive location within which to integrate new development and the council will expect proposals to respect the high quality and distinctive landscapes of the borough in accordance with policy DM30. In order to assist in the successful integration of new development into the countryside the council will ensure Landscape and Visual Impact Assessments are carried out as appropriate to assess suitability and to aid and facilitate the design process.”*

3.18 Paragraphs 4.106 to 4.110 (pages 67-68) relate to the Kent Downs Area of Outstanding Natural Beauty. References to its setting are made at paragraph 4.106 where it states:

*“Open countryside to the immediate south of the AONB forms a large extent of the setting for this designation. In Maidstone this is a sensitive landscape that is coming under threat from inappropriate development and is viewed as a resource that requires conservation and enhancement where this supports the purposes of the AONB.”*

3.19 Paragraph 4.107 where it states:

*“The council will ensure proposals conserve and enhance the natural beauty, distinctive character, biodiversity and setting of the AONB, taking into account the economic and social well-being of the area.”*

3.20 Paragraph 4.110 where it states:

*“The foreground of the AONB and the wider setting is taken to include the land which sits at and beyond the foot of the scarp slope of the North Downs and the wider views thereof. It is countryside sensitive to change, with a range of diverse habitats and landscape*



*features, but through which major transport corridors pass.....*

*....National policy (NPPF and NPPG) directs that great weight should be given to conserving landscape and scenic beauty in the AONB. The duty is relevant to proposals outside the boundary of the AONB which may have an impact on the statutory purposes of the AONB. Matters such as the size of proposals, their distance, incompatibility with their surroundings, movement, reflectivity and colour are likely to affect impact. The Kent Downs AONB Management Plan advises that ‘where the qualities of the AONB which were instrumental in reasons for its designation are affected, then the impacts should be given considerable weight in decisions. This particularly applies to views to and from the scarp of the North Downs.’ It is considered therefore that it is not necessary to formally define the setting of the Kent Downs AONB and that the impact of development can be appropriately assessed through the criteria of the policy.”*

3.21 Relevant to the appeal the policy itself states that (page 70 of the MBLP):

*“The countryside is defined as all those parts of the plan area outside the settlement boundaries of the Maidstone urban area, rural service centres and larger villages defined on the policies map.*

- 1. Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area.*
  
- 4. Proposals should not have a significant adverse impact on the settings of the Kent Downs Area of Outstanding Natural Beauty or the High Weald Area of Outstanding Natural Beauty.*

*Account should be taken of the Kent Downs Area of Outstanding Natural Beauty Management Plan and the Maidstone Borough Landscape Character Guidelines Supplementary Planning Document.*

3.22 Policy SP17 was found sound at the MBLP Examination against the 2012 version of the NPPF. It is considered to be consistent with the latest version of the NPPF (2023)

(paragraphs 174 to 177) being a policy that defines the countryside for planning purposes, sets what development can be allowed within it with reference to other policies in the plan, sets out the protection afforded to nationally designated and locally valued landscapes in the Borough, and the protection afforded to the general countryside. The policy is therefore considered to be up to date and carries full weight.

### **Policy SP21 (Economic Development)**

3.23 Policy SP21 is a strategic policy that sets out how the MBLP will support and improve the economy of the Borough and provide for the specific needs of businesses. It essentially states this will be achieved through the allocation of specific sites, and development within designated economic development areas, the Maidstone urban area, and the rural service centres. In the countryside it supports the expansion of existing economic development premises, including tourism related development, provided the scale and impact of the development is appropriate for its countryside location, in accordance with policy DM37.

3.24 The explanatory text at paragraph 4.138 of the MBLP (page 78) states:

*“The net additional land requirements for B class uses and retail to 2031 are to be delivered through the allocation of sites and the granting of planning permissions. Other economic growth will be created through tourism, social infrastructure provision such as education and health care, construction and other small scale opportunities such as the conversion or extension of rural buildings that will not necessarily require the allocation of land.”*

3.25 At paragraphs 4.144 (page 79) with reference to the countryside it states:

*“Within the countryside economic development will be permitted for the conversion and extension of existing suitable buildings and established sites, farm diversification and tourism where this can be achieved in a manner consistent with local rural and landscape character in order that a balance is struck between supporting the rural economy and the protection of the countryside for its own sake. Policy DM37 sets out the considerations which will apply when established rural businesses want to expand their existing premises.”*

- 3.26 The policy refers to the allocation of specific sites and the allocated sites that contribute to employment provision are set out under MBLP policies RMX1 (Retail and Mixed Use Allocations) and EMP1 (Employment Allocations) (pages 106-107 and pages 110-111 of the MBLP).
- 3.27 Policy RMX1 states that approximately 106,000m<sup>2</sup> of employment floor space will be provided (page 107) of which 100,000m<sup>2</sup> is 'medical and associated uses'. Policy EMP1 states 75,800m<sup>2</sup> of office, industrial and warehousing will be provided (page 111). This is set out at Table 4.9 on pages 106-107 and Table 4.10 on page 110 of the MBLP. The allocation of 75,800mm<sup>2</sup> of employment floorspace provides for over double the net requirement of 32,565m<sup>2</sup> for offices and warehousing.
- 3.28 Policy SP21 was found sound at the MBLP Examination against the 2012 version of the NPPF. It is considered to be consistent with the latest version of the NPPF (2023) (paragraphs 81 to 85) being a policy that sets out a clear economic vision and strategy for sustainable economic growth through development at the site allocations set out under policies RMX1 and EMP1, within designated economic development areas, the Maidstone urban area, the rural service centres. The policy also enables the sustainable growth and expansion of existing businesses in rural areas. The policy is therefore considered to be up to date and carries full weight.

### **Policy DM30 (Design Principles in the Countryside)**

- 3.29 Policy DM30 is a non-strategic policy and seeks high quality design for development outside the settlement boundaries as defined on the policies map. Relevant to the appeal it requires that:
- ii. Impacts on the appearance and character of the landscape would be appropriately mitigated. Suitability and required mitigation will be assessed through the submission of Landscape and Visual Impact Assessments to support development proposals in appropriate circumstances;*
  - iv. Where built development is proposed, there would be no existing building or structure*

*suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area;*

- 3.30 Policy DM30 was found sound at the MBLP Examination against the 2012 version of the NPPF. It is considered to be consistent with the latest version of the NPPF (2023) (paragraphs 130(c) and 174) being a policy that seeks to ensure development is sympathetic to local character including the landscape, and protects the character and beauty of the countryside. The policy is therefore considered to be up to date and carries full weight.

### **Emerging Policy – Maidstone Local Plan Review**

- 3.31 Maidstone Borough Council (MBC) is in the process of undertaking a Local Plan Review (LPR) which was submitted to the Secretary of State in March 2022. It has been the subject of a public examination over two stages of hearings in September - November 2022 (Stage 1) and May - June 2023 (Stage 2). Stage 1 considered matters of legal compliance, the amounts of development being planned for and the overarching strategy. Stage 2 considered site allocations, strategic policies not dealt with at Stage 1, and the various development management policies.
- 3.32 After the Stage 1 hearings the Inspector provided a letter in January 2023 [CD6.6] which considers that the duty to cooperate has been met (paragraph 2.1), that the calculation of housing need is sound (paragraphs 3.1 - 3.2), that the employment land requirement is sound (paragraph 3.4), and the Spatial Strategy for development is sound as an appropriate strategy (paragraph 4.4). However, under 'Next Steps' (section 7) it concludes that a number of strategic policies in the LPR are not sound but the plan can be made justified, effective and consistent with national policy through a series of main modifications, which are set out in the Appendix to that letter.
- 3.33 In terms of strategic matters the letter sets out the following main modifications (summarised):

- The plan period should be extended by a year at either end to 2021 until 2038.
- Housing requirement increased based on the extended plan period and the inclusion of a stepped housing trajectory.
- Employment land requirement increased based on the extended plan period.
- Modifications are required relating to the removal of the 'Leeds Langley' area as a potential development location, matters relating to the two garden settlements at 'Heathlands' and 'Lidsing', and matters relating to Invicta Barracks.

3.34 MBC set out modifications to address the above matters and in his letter after the Stage 2 hearings [CD6.7] the Inspector stated, *"Having considered the Council's proposed modifications together with statements and discussion with participants at the hearing sessions, I consider that the LPR could be made sound by main modifications."*

3.35 The Council published the 'main modifications' (MMs) [CD6.14] which the Inspector considers are necessary to make the Plan sound and a 6 week public consultation expired on 13<sup>th</sup> November 2023.

3.36 The LPR is therefore at an advanced stage having been through Examination where the Inspector considered all representations both made in writing and verbally at the hearing sessions. The MMs the Inspector considers are required to make it sound have been sent out to public consultation and are expected to be sent the Inspector imminently. The Inspector must consider these responses before issuing his Final Report and for these reasons it is considered the LPR as a whole currently has 'moderate weight'. The Council expects adoption of the LPR in early 2024.

3.37 The LPR policies replacing those considered most important to the appeal are as follows which are set out where relevant including the changes under the MMs:

**Draft Policy LPRSS1 (Maidstone Borough Spatial Strategy)**

3.38 Policy LPRSS1 (page 29 of the Regulation 19 LPR) is a strategic policy that sets out the spatial strategy for the LPR and sets out the quantities of housing, employment, and retail uses required.

- 3.39 The policy sets out the spatial distribution of development at the most sustainable locations towns and villages in the borough with a settlement hierarchy as follows (page 26 of the LPR):



- 3.40 All tiers of the hierarchy have defined settlement boundaries as shown on the draft LPR policies map apart from the 'smaller villages and hamlets'.

- 3.41 The policy itself, including the MMs changes in bold (MM7), at Criteria 2 states:

*Between ~~2022~~ 2021 and ~~2037~~ 2038 provision is made through the granting of planning permissions and the allocation of sites for a minimum of **119,250m2 employment floorspace as follows:***

- i. ~~33,430~~ **36,650**m<sup>2</sup> floorspace for office use;
- ii. ~~27,135~~ **33,660**m<sup>2</sup> floorspace for industrial use;
- iii. ~~40,990~~ **48,940**m<sup>2</sup> floorspace for warehousing use.

3.42 Criteria 4 states that, “New land allocations that contribute towards meeting the above provisions are identified on the policies map.”

3.43 Criteria 8 relates to ‘Employment Sites’ and states:

*“**Delivery of Woodcut Farm**, 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 ~~2037~~ **2038**. The site will make a substantial contribution to the need for new office space in the borough as well ~~meeting the 'qualitative' need for a~~ **providing a** new, well serviced and well-connected mixed-use employment site suitable for offices, industry and warehousing, ~~and will~~ **thereby helping** to diversify the range of sites available to new and expanding businesses in the borough. Redevelopment of the former Syngenta Works site near Yalding will make a significant contribution to the provision of employment uses, **as will the continued build out of the Kent Medical Campus/ Newnham Park site**. A number of smaller sites for employment use are allocated around the borough to accommodate a diverse range of employment types.”*

3.44 In the explanatory text to the policy, paragraph 5.15 of the LPR (page 24) sets out the employment floorspace requirement which has been increased under the MMs to reflect the extended plan period. It makes clear that this re-sets the requirement from 2022 and is not in addition to the MBLP requirements and states:

*“The council’s Employment Need Assessment identifies that the minimum floorspace required to meet need based on job growth forecasts (labour demand) is 101,555m<sup>2</sup> (gross) for employment uses over the period 2022-2037. This essentially re-sets the requirement from 2022 and is not in addition to the current local plan requirement. This figure is then translated into a land take requirement (in hectares), based on assumptions of the type of employment and its location in the borough. For example, offices located within Maidstone town centre are assumed to achieve a higher job density than offices located elsewhere in the borough and will therefore have differing plot ratios applied. This*

*will have implications on the overall land needed to provide the required floorspace.”*

- 3.45 Other references to employment provision are under criteria 9 being ‘suitably scaled employment opportunities’ within the ‘rural service centres’, and criteria 12 being ‘small scale employment opportunities’ at appropriate locations to support the rural economy.
- 3.46 Policy LPRSS1 is considered to be consistent with the NPPF (2023) (paragraphs 17, 20 to 22) in setting out an overall strategy for the pattern and scale of development for Maidstone Borough between 2021 and 2038. The LPR Inspector has considered all objections to the spatial strategy and has found the strategy and quantum of development for the LPR sound subject to the MMs. Whilst the Inspector must still consider any representations made on the MMs consultation and produce his final report this policy is considered to attract significant weight.

### **Policy LPRSP9 (Development in the Countryside)**

- 3.47 Policy LPRSP9 is a strategic policy that defines the countryside for Local Plan purposes, sets out what development can be allowed within it with reference to other policies in the plan, sets out the protection afforded to nationally designated and locally valued landscapes in the Borough, and the protection afforded to the general countryside.
- 3.48 Like MBLP policy SP17 the explanatory text at paragraph 6.126 of the LPR (page 98) sets out how the countryside is defined being land outside settlement boundaries as shown on the policies map.
- 3.49 Paragraphs 6.127 to 6.128 (pages 98-99) relate to the rural economy and Maidstone’s rural economic character with reference to agriculture, and small businesses and homeworking being a particular feature of rural areas.
- 3.50 Paragraph 6.131 (page 99) relates to ‘design’ and states the same as Paragraph 4.105 of the MBLP.
- 3.51 Paragraphs 6.132 to 6.136 (pages 99-100) relate to the Kent Downs Area of Outstanding Natural Beauty and reference to its setting are the same as the MBLP at paragraphs



4.106 to 4.110.

3.52 Relevant to the appeal the policy itself including changes under the MMs (MM38) states that (page 103 of the LPR):

*“The countryside is defined as all those parts of the plan area outside the settlement boundaries of the Maidstone urban area, rural service centres and larger villages defined on the policies map.*

1. *Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in **significant** harm to the character and appearance of the area.*
  
4. *Proposals should not have a significant adverse impact on the settings of the Kent Downs Area of Outstanding Natural Beauty or the High Weald Area of Outstanding Natural Beauty.*

*Account should be taken of the Kent Downs Area of Outstanding Natural Beauty Management Plan and the Maidstone Borough Landscape Character Guidelines Supplementary Planning Document.*

3.53 Policy LPRSP9 is considered to be consistent with the NPPF (2023) (paragraphs 174 to 177) being a policy that defines the countryside for planning purposes, sets what development can be allowed within it with reference to other policies in the plan, sets out the protection afforded to nationally designated and locally valued landscapes in the Borough, and the protection afforded to the general countryside. The LPR Inspector has considered all objections to the policy and has required minor changes to it under the MMs (MM38). Although he must still consider any representations made on the MMs consultation and produce his final report this policy essentially replaces SP17 with a minor change and so this policy is considered to attract significant weight.

#### **Policy LPRSP11 (Economic Development)**

3.54 Policy LPRSP11 is a strategic policy that sets out how the LPR will support and improve

the economy of the Borough and provide for the needs of businesses. It essentially states this will be achieved through the allocation of specific sites, new strategic sites in both Garden Settlements, and development within designated economic development areas, the Maidstone urban area, and the rural service centres. In the countryside it supports the expansion of existing economic development premises, including heritage and tourism related development, provided the scale and impact of the development is appropriate for its countryside location, in accordance with policy LPRCD6.

3.55 The explanatory text at paragraph 7.34 of the LPR (page 119) states:

*“For the borough to achieve growth in a sustainable manner, local employment opportunities must be aligned with the rate and location of house building. The net additional land requirements for office, industrial and distribution/warehouse-based jobs (use classes E(g) and B) to 2037 are to be delivered through a combination of the allocation of sites across the borough and the granting of planning permissions. The allocated sites range in size from smaller mixed-use town centre sites, to extensions of existing industrial estates near Rural Service Centres, to large strategic sites including as part of new Garden Settlements. The Local Plan Review strategy is to oversupply a diverse range of sites to provide maximum choice and flexibility in the market, accounting for different sector locational and operational needs, and wider economic trends.”*

3.56 At paragraphs 7.36-7.37 (page 119) with reference to strategic employment sites it states (including MM43):

*“The strategic site allocation at Junction 7 (Local Plan Policy RMX1(1)) is a particular opportunity to create a hub for medical related businesses, capitalising on the development of the Kent Institute of Medicine and Surgery (KIMS), to attract high value, knowledge intensive employment and businesses as a boost to the local economy. This site will also deliver additional general office space in a high-quality environment. Outline consent has been granted for the medical hub and delivery of the permission is underway.*

*The former Syngenta Works site in Yalding is an allocation **largely** carried over from the Local Plan 2017, ~~although it is now proposed for a mix of employment uses only~~. A former agro-chemicals production plant, this site is expected to deliver in excess of 46,000sqm of office, industrial and distribution floorspace. Similarly, Woodcut Farm*

*strategic site is also allocated for a mix of employment uses delivering up to 49,000sqm of floorspace. It gained outline planning consent in 2018 and will remain an allocation as carried over from Local Plan 2017, until the site is delivered.”*

3.57 Paragraph 7.42 (page 120) refers to the countryside and is similar to paragraph 4.144 of the MBLP.

3.58 Policy LPRSP11 is considered to be consistent with the NPPF (2023) (paragraphs 81 to 85) being a policy that sets out a clear economic vision and strategy for sustainable economic growth through development at site allocations, new strategic sites in both Garden Settlements, within designated economic development areas, the Maidstone urban area, and the rural service centres. It also supports the expansion of existing economic development premises in the countryside provided the scale and impact of the development is appropriate for its countryside location. The LPR Inspector has considered all objections to the policy and has not required any changes. Whilst he must still consider any representations made on the MMs consultation and produce his final report this policy is considered to attract significant weight.

### **LPRSP11(B) (Creating New Employment Opportunities)**

3.59 Policy LPRSP11(B) is a strategic policy that sets out the LPR allocations to accommodate new employment and town centre uses or a combination of the two. Paragraph 7.57 (page 127) states:

*“The purpose of these allocations is to increase the range and choice of sites available and to address the desire for self-containment of settlements in terms of homes/jobs/services balance, a particularly important aspect in new Garden Communities where entirely new communities are being created. A number of sites in this plan are allocated for a mix of different uses, including employment, retail and residential.”*

3.60 Paragraph 7.59 (page 127) has a table which sets out the provision of employment floorspace (E(g) and B uses) and is set out here with inclusion of the MMs (MM49):

Site Ref	Site Name	Growth Location	E(g) office m <sup>2</sup>	B2 industrial m <sup>2</sup>	B8 distribut ion m <sup>2</sup>	Town centre uses m <sup>2</sup>
<del>LPRRMX1</del> (3)	King Street Car Park	Maidstone Town Centre	-	-	-	<del>700</del> <u>1,400</u>
LPRSA145	Len House	Maidstone Town Centre	-	-	-	3,612
LPRSA147	Gala Bingo & Granada House	Maidstone Town Centre	-	-	-	TBD
LPRSA148	Maidstone Riverside	Maidstone Town Centre	-	-	-	TBD
LPRSA149	Maidstone West	Maidstone Town Centre	-	-	-	TBD
LPRSA151	Mote Road	Maidstone Town Centre	1,169	-	-	-
LPRSA144	High St/ Medway St	Maidstone Town Centre		-	-	150
LPRSA146	Maidstone East	Maidstone Town Centre	5,000	-	-	2,000
<del>LPRRMX1</del> (1)	Newnham Park (Kent Medical Campus)	Maidstone Urban Area	21,270			14,300
<del>LPREMP1</del> (4)	Woodcut Farm	Maidstone Urban Area	49,000			-
<u>LPRSA362</u>	<u>Police HQ, Sutton Road</u>	<u>Maidstone Urban Area</u>	<u>5,800</u>	-	-	-
EMP1(1)	West of Barradale Farm	Headcorn	3,500			-
EMP1(2)	South of	Marden	4,000			-
	Claygate					
<u>LPRSA066</u>	<u>Lodge Road</u>	<u>Staplehurst</u>	<u>1,000</u>	-	-	-
LPRSA260	Ashford Road	Lenham	2,500			-
LPRSA078	Haven Farm	Sutton Valence	-	-	-	<del>788</del> <u>400</u>
<del>LPRSAEMP1</del> <u>RMX1(4)</u>	Former Syngenta Works	Yalding	46,000			-

3.61 It includes narrative on four strategic allocations at paragraphs 7.60-7.75 (pages 129-132)

and the text for the 'Woodcut Farm' and 'Former Syngenta Works' sites has changed fairly significantly under the MMs (MM45 and MM46) mainly removing descriptions of the sites and various site specific requirements under the allocation policies.

3.62 The policy itself and subject to MMs (MM48) states:

*"Allocated sites – Employment*

1. *The sites allocated under policies **LPR EMP1(1), LPR EMP1(2), LPR EMP1(4), LPRSAEmp1 RMX1(4)**, and LPRSA260 will deliver approximately 105,000m<sup>2</sup> employment floorspace to help meet employment needs during the plan period. Development will be permitted provided the criteria for each site set out in the detailed site allocation policies are met.*

*Allocated sites – Mixed Use*

2. *The sites allocated under policies **LPR RMX1(1), LPR RMX1(3), LPRSA066, LPRSA078, LPRSA144, LPRSA145, LPRSA146, LPRSA147, LPRSA148, LPRSA149, and LPRSA151, and LPRSA362** will deliver a mix of approximately ~~27,439m<sup>2</sup>~~ **34,239m<sup>2</sup>** employment floorspace and ~~6,862m<sup>2</sup>~~ **7,562m<sup>2</sup>** net retail floorspace, along with new homes to help meet the borough's needs over the plan period. Development will be permitted provided the criteria for each site set out in the detailed site allocation policies are met.*

*Garden Settlements*

3. *Heathlands Garden Settlement is expected to provide approximately 19,110m<sup>2</sup> of employment floorspace and 4,764m<sup>2</sup> of retail\* floorspace to 2037. Lidsing Garden Settlement is expected to provide approximately 42,998m<sup>2</sup> of employment floorspace and 1,055m<sup>2</sup> of retail\* floorspace to 2037. Further details masterplans for each Garden Settlement.*

*\*This includes convenience retail, comparison retail, food/beverage, and non-retail services e.g. hair dressers, estate agents, travel agents etc.*

*Rest of the borough*

4. *On non-allocated sites within Maidstone Urban Area or the Rural Service Centres, permission will be granted for industrial or business development, recognising the specific locational requirements of different sectors, provided that the proposals would:
  - a. *Be of a type and scale of activity that does not harm the character, appearance or environments of the site or its surroundings or to the amenity of occupiers of nearby properties;*
  - b. *Be readily accessible by public transport, wherever possible, and by bicycle and foot, or contribute towards provision of new sustainable transport infrastructure to serve the area, in order to make the development accessible by those modes; and*
  - c. *Have a layout, access, parking, landscaping and facilities that are appropriate to the site and its surroundings.**
  
5. *Major development schemes will be required to demonstrate how they have considered and provided for employment opportunities for all of the Borough's residents. There may be particular circumstances whereby there is a need for an emphasis on those residents living in Ringlestone, Parkwood so as to make a specific contribution to inclusive growth. Therefore, supporting statements evidencing this will be a requirement of major planning applications. Developers will be required to encapsulate their commitments by entering into s106 legal agreements in order to deliver labour opportunities for these residents in relation to the construction phase and post occupation phases of major new developments which necessitate a change in the use class.”*

3.63 The policy sets out that 105,000m<sup>2</sup> of floorspace will be provided under the employment allocations, and 62,108m<sup>2</sup> at the garden settlements providing a total of 167,108m<sup>2</sup> which far exceeds the need of 119,205m<sup>2</sup>.

3.64 Policy LPRSP11(B) is considered to be consistent with the NPPF (2023) (paragraphs 81 to 85) being a policy that sets out a clear economic vision and strategy for sustainable economic growth through development at the LPR site allocations, garden settlements, and for the rest of the borough within the urban area and rural service centres. The LPR

Inspector has considered all objections to the policy and has not required any fundamental changes to the policy. Whilst he must still consider any representations made on the MMs consultation and produce his final report this policy is considered to attract significant weight.

### **Policy LPRQ&D4 (Design Principles in the Countryside)**

- 3.65 Policy LPRQ&D4 (page 266 of the LPR) is a non-strategic policy and seeks high quality design for development outside the settlement boundaries as defined on the policies map. It is the same as policy DM30 of the MBLP apart from the inclusion of three more criterion which relate to designs responding to climate change, the use of local and sustainable materials, and renewable energy generation where possible.
- 3.66 Policy LPRQ&D4 is considered to be consistent with the NPPF (2023) (paragraphs 130(c) and 174) being a policy that seeks to ensure development is sympathetic to local character including the landscape, and protects the character and beauty of the countryside. The LPR Inspector has considered all objections to the policy and has not required any changes to the policy. Whilst he must still consider any representations made on the MMs consultation and produce his final report this policy replaces and is the same as policy DM30 and so this policy is considered to attract significant weight.

### The Kent Downs AONB Management Plan (2021-2026)

- 3.67 The Kent Downs AONB Management Plan [CD3.3] has been prepared by the Kent Downs AONB Unit in accordance with Section 89 of the Countryside and Rights of Way Act 2000. It sets out the aims, policies and actions for the conservation, enhancement and management of the AONB under a series of principles. The PPG (Paragraph: 040 Reference ID: 8-040-20190721) sets out that such plans provide evidence of the value and special qualities of these areas and may contain information which is a material consideration when assessing planning applications.
- 3.68 Under the SoCG it is agreed that it is a material consideration and it is referred to under policies SP17 and DM30 of the MBLP.

- 3.69 Under Chapter 1 (The special components, characteristics and qualities of the Kent Downs AONB) at section 1.2 (page 5) it identifies landscape components with the first being ‘Dramatic landform and views; a distinct landscape character’. It refers to a key feature being the “impressive south-facing steep slopes (scarps) of chalk and greensand”.
- 3.70 Under Chapter 2 at section 2.1.4 (page 14) it sets out that when the AONB was confirmed in 1968 the overall remarks of the designation committee included that, “*The scarp slope and dry valleys of the Kent Downs are the main target for designation....*”
- 3.71 Under Chapter 3 (Sustainable Development) section 3.3 – Setting (page 29), it states, where the qualities of the AONB which were instrumental in reasons for its designation are affected by proposals in the setting, then the impacts should be given considerable weight in decisions.
- 3.72 At paragraph 3.6 (Sustainable Development – Principles), principle SD8 is to ensure proposals do not negatively impact on the setting and views to and from the Kent Downs AONB.

### **National Planning Policy Framework**

#### **Section 2 – Achieving Sustainable Development**

- 3.73 Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development and paragraph 8 sets out what this means through 3 overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social, and environmental objectives.
- 3.74 Paragraph 11 relates to ‘the presumption in favour of sustainable development’ and sets out what this means for plan-making and decision-taking. It states that ‘*decisions should apply a presumption in favour of sustainable development.*’
- 3.75 Paragraph 12 states that,

*“The presumption in favour of sustainable development does not change the statutory*



*status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”*

### Section 3 – Plan-making

3.76 Paragraph 15 states that,

*“The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”*

### Section 4 – Decision-making

3.77 Paragraph 47 states that,

*“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.”*

3.78 Paragraph 48 sets out the process of establishing weight that can be given to relevant policies in emerging plans according to:

*(a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*

*(b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*

*(c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)*

Section 6 – Building a strong, competitive economy

3.79 Paragraph 81 states that,

*“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”*

3.80 Paragraph 83 states that,

*“Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.”*

Section 15: Conserving and enhancing the natural environment

3.81 Paragraph 174(b) states that,

*“Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*(b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;”*

3.82 Paragraph 176 states that,

*“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”*

## 4.0 THE MAIN ISSUES

4.01 There are three reasons for refusal, which are summarised below:

1. The development would be contrary to the Spatial Strategy of the Maidstone Borough Local Plan 2017 for the location of economic development and there is no current or future need for the development.
2. The development would cause significant harm to the character and appearance of the countryside and landscape in the local area and have a significant adverse impact on the setting of the Kent Downs AONB in views towards the scarp slope.
3. Insufficient information has been submitted to demonstrate that the off-site 'habitat' biodiversity net gain proposed by the applicant can be delivered.

4.02 As agreed in the SoCG the 3<sup>rd</sup> reason for refusal has been overcome through the submission of an updated Biodiversity Net Gain (BNG) assessment [CD7.13]. The Council's advisors (Kent County Council Ecological Advice Service) have reviewed the new BNG assessment and advised it sufficiently demonstrates that a 14.49% net gain for habitats can be achieved on the off-site parcel of land [CD2.19]. This will be secured via a legal agreement and/or planning condition.

4.03 Reasons for refusal 1 and 2 remain and are addressed in this proof of evidence.

4.04 The main issues identified by the Inspector at the Case Management Conference on 27<sup>th</sup> November 2023 are as follows:

- Whether the proposal accords with local and national policy when regard is paid to the location of economic development (RFR1).
- Effects on the character and appearance of the area, when regard is paid to local landscape impact and impact on the setting of the Kent Down Area of Outstanding Natural Beauty (RFR2).
- The effectiveness of the proposal when regard is paid to net gains for biodiversity (RFR3).

## 5.0 Issue 1: Spatial Strategy and Employment Need

### MBLP Spatial Strategy

- 5.01 The site lies outside any settlement boundary or development allocation under the MBLP and is therefore within the 'countryside'. Policy SS1 (Spatial Strategy) seeks to focus development towards an expanded Maidstone urban area, with a secondary focus for (housing) development in 'rural service centres', and some further limited (housing) development at named 'larger villages'. In regard of employment it refers to the specific 'Woodcut Farm' allocation at Junction 8 to the north of the appeal site. The provision of major employment development outside of these defined areas and in the countryside is contrary to this Spatial Strategy and is not in accordance with any of the criterion.
- 5.02 Outside of these defined areas 'small scale employment opportunities' can be permitted at appropriate locations to support the rural economy. The appeal proposal does not represent a small-scale employment opportunity as it is major development. This is accepted by the appellant at paragraph 4.9 of their Statement of Case where it is stated that, "the building to be provided is not small in scale". Nor is it to support the local 'rural economy' of Maidstone. The rural economy of Maidstone is described at paragraphs 4.96 to 4.99 of the MBLP (pages 65-66) as being made up of small businesses, agriculture, re-use of former farm buildings for commercial uses, tourism, and recreation. The appellant's need case for the development as set out in the 'Economic Needs Assessment' for the planning application [CD1.6] is essentially that the development is required to meet Maidstone's employment needs for logistics and the wider region. It concludes at paragraph 6.1 that "*The subject site occupies a critically important location for the existing and future economy of Maidstone, and the wider region in the future*" and at 6.2 that "*There is an under provision of large-scale, modern distribution units within the local market.*" This is not a small scale development to support the rural economy and so is not in accordance with criteria 8.
- 5.03 Policy SP21 (Economic Development) states that the economy of the Borough and the specific needs of businesses will be supported through the allocation of specific sites, and the retention, intensification and regeneration of existing economic development areas, and the same for existing economic development premises in the Maidstone

urban area, and the rural service centres. It carries through the Spatial Strategy in directing economic development to defined settlements, designated economic development areas, and allocated sites. The provision of major employment development outside of these defined areas and in the countryside is contrary to this policy.

- 5.04 Criteria (viii) supports the expansion of existing economic development premises in the countryside provided the scale and impact of the development is appropriate for its countryside location, in accordance with policy DM37. This relates only to existing premises or businesses and the explanatory text at paragraph 4.144 (page 79 of the MBLP) refers to policy DM37 applying when “established rural businesses want to expand their existing premises.” Policy DM37 is titled ‘expansion of existing businesses in rural areas’. The explanatory text at paragraph 8.28 (page 289 of the Maidstone Borough Local Plan) sets out that there are many industrial and business enterprises located in rural areas, some long established and others normally small scale in disused rural buildings. It acknowledges that many of these will over time need to expand and/or diversify. Criteria (viii) of policy SP21 and policy DM37 are clearly relevant to existing businesses in rural area this being stated under criteria (viii) and in the name of policy DM37.
- 5.05 Although not deemed a relevant policy in the Planning Statement for the application, policy DM37 is referred to in the appellant’s Statement of Case at paragraph 4.9. For the reasons stated above this policy is only relevant to sites where there are existing rural businesses.
- 5.06 The only business operating at the appeal site is agriculture in the form of arable farming and there is no existing development. The proposal is not for agriculture and so does not relate to an existing business at the site. It would introduce a wholly new logistics business at the site and therefore policy SP21 criteria (viii) and policy DM37 are not relevant to the appeal proposals.
- 5.07 Even if it was judged that policy DM37 is relevant this only allows for ‘sustainable growth and expansion’ and ‘small scale’ buildings that can be satisfactorily integrated into the local landscape. For the reasons set out under Issue 2 below and as demonstrated in

Mr Radmall's evidence, the proposals are not considered to represent environmentally sustainable development or that which can be satisfactorily integrated into the local landscape. At paragraph 4.9 of the appellant Statement of Case, it is also accepted that the building is not 'small scale'. If this policy was deemed to be relevant the proposals do not comply with it.

- 5.08 To conclude on the Spatial Strategy, the appeal proposals are on an undeveloped greenfield site falling within the 'countryside'. There are no strategic MBLP policies that allow for major employment development on such sites and outside of designated economic development areas, site allocations, or defined settlements. The proposals are therefore contrary to policies SS1 and SP21 of the MBLP. The proposals do not represent the expansion of an existing rural business at the site and therefore policy DM37 is not relevant to the appeal. The proposals are therefore contrary to the development plan.

#### LPR Spatial Strategy

- 5.09 The LPR Spatial Strategy is similar to the MBLP in setting out a settlement hierarchy for development with some additions in the form of the garden settlements, the Invicta Barracks site, and the smaller villages and hamlets. The site still remains outside any settlement boundary or development allocation under the LPR and is therefore within the 'countryside'.
- 5.10 The provision of major employment development outside of these defined areas and in the countryside is therefore contrary to this Spatial Strategy and is not in accordance with any of the criterion of the policy.
- 5.11 Like the MBLP, outside of these defined areas employment development is limited to 'small scale employment opportunities' at appropriate locations to support the rural economy (criteria 12). For the reasons stated at paragraph 5.02 above the appeal proposal does not represent a small-scale employment opportunity to support the local 'rural economy' of Maidstone and so is not in accordance with criteria 12.

- 5.12 Policy LPRSP11 (Economic Development) carries through the Spatial Strategy in directing economic development to defined settlements, designated economic development areas, and allocated sites. The provision of major employment development outside of these defined areas and in the countryside is contrary to this policy.
- 5.13 Like policy SP21 of the MBLP, criteria 8 supports the expansion of existing economic development premises in the countryside provided the scale and impact of the development is appropriate for its countryside location, in accordance with policy LPRDC6. Like the MBLP this relates only to existing premises or businesses. Criteria 8 of policy LPRSP11 and policy LPRDC6 are clearly relevant to existing businesses in rural area this being stated under criteria 8 and in the name of policy LPRDC6. For the reasons set out at paragraphs 5.04 to 5.07 above, this is not considered relevant to the appeal proposals.
- 5.14 To conclude on the LPR Spatial Strategy, the appeal proposals are on an undeveloped greenfield site falling within the 'countryside'. There are no strategic LPR policies that allow for major employment development on such sites and outside of designated economic development areas, site allocations, or defined settlements. The proposals are therefore contrary to policies LPRSS1 and LPRSP11 of the LPR. The proposals do not represent the expansion of an existing rural business at the site and therefore policy LPRDC6 is not relevant to the appeal. The proposals are therefore contrary to the emerging LPR.

#### Need for Employment Land

- 5.15 I adopt the findings of my colleague Mr Kinghan in respect of this matter. [CD7.12]

#### Maidstone Borough Local Plan

- 5.16 The MBLP identifies a gross requirement for 49,911m<sup>2</sup> of warehousing floorspace between 2016 and 2031 and a net requirement for 7,965m<sup>2</sup>. This is met through the four employment policy allocations EMP1(1-4) which provide for a total of 75,800m<sup>2</sup> mixed



commercial floorspace (offices, light and general industry, and warehousing) as set out under Table 4.10 of the MBLP (page 110 of the MBLP).

- 5.17 These sites far exceed the MBLP floorspace requirement for warehousing and as set out at Section 4 (Monitoring and Supply Position) of Mr Kinghan's evidence, warehouse floorspace has been delivered above the MBLP targets. On this basis, there is no need for the development to be met be under the adopted Local Plan and so no weight to give to this matter in respect of the MBLP.

### Emerging Local Plan Review

- 5.18 Section 3 of Mr Kinghan's evidence sets out the evidence base that supports the LPR and the employment floorspace requirement between 2021 and 2038 for a total of 119,250m<sup>2</sup> (following MMs) of which 48,940m<sup>2</sup> is warehousing floorspace. It also sets out how this requirement will be met and exceeded under the LPR through the employment policy allocations EMP1(1, 2, and 4), LPRSA260, and RMX1(4) which provide for a total of 105,000m<sup>2</sup> of mixed employment floorspace as set out under policy LPRSP11(B) and the two garden settlements that will provide for 62,108m<sup>2</sup> of employment floorspace during the Plan period.
- 5.19 Section 7 sets out why this evidence base is considered to be up to date and compliant with national guidance and that there is no need for the floorspace proposed under the appeal. On this basis, there is no need for the development to be met be under the LPR and so no weight to give to this matter in respect of the LPR.

## **6.0 Issue 2: Effect of the proposed development on the character and appearance of the locality and the setting of the Kent Downs AONB**

6.01 I adopt the findings of my colleague Mr Radmall in respect of these matters [CD7.11].

### Character and Appearance of the Countryside

6.02 Mr Radmall's evidence describes the site and its local context, its relationship with the relevant landscape character assessments for the appeal site and surrounding area, the visual influence of the site and its sensitivity, and the impacts of the development on views and landscape character.

6.03 Sections 7 and 8 of Mr Radmall's evidence set out the visual impact of the development and its impact upon the character of the area. They also set out how the potential for mitigation would be of very limited effectiveness in local views.

6.04 This evidence demonstrates that the appeal scheme would result in significant harm to the character and appearance of the countryside and landscape within the local area resulting from the coverage and scale of the development and its prominence in local views contrary to policy SP17(1) of the MBLP and paragraph 174(b) of the NPPF. The evidence also demonstrates the impacts would not be appropriately mitigated contrary to policy DM30(ii) of the MBLP.

6.05 For these reasons the development is also contrary to policies LPRSP9 and LPRQ&D4 (2 & 4) of the LPR.

### Setting of the Kent Downs AONB

6.06 The site is around 520m south of the boundary with the AONB at its closest point and it is agreed in the SoCG that it falls within its setting.

6.07 Section 8 of Mr Radmall's evidence sets out that the south facing scarp slope is a highly visible key characteristic and quality of the AONB as identified in the Kent Downs AONB Management Plan and was one of the main targets for its designation in the first place.

Section 7 sets out the impact on the setting and how the development will obstruct and significantly reduce views and appreciation of the scarp slope from the south and the mitigation would be of very limited effectiveness.

6.08 This evidence demonstrates that the impact of the appeal scheme on the setting of the AONB would be significantly adverse and the proposals are therefore contrary to policy SP17(6) of the MBLP, paragraph 176 of the NPPF, and principle SD8 of the Kent Downs AONB Management Plan.

6.09 For these reasons the development is also contrary to policy LPRSP9(4) of the LPR.

#### Woodcut Farm Development

6.10 The appellants Statement of Case at paragraph 4.7 refers to the Woodcut Farm allocation and development to the north of the site, and how it impacts upon the character of the local area. The planning history of the Woodcut Farm site is set out at paragraph 4.6 of the LPAs Statement of Case [CD7.2]. Set out below are the LPAs and MBLP Inspector's considerations of this development under the planning applications and MBLP Examination in relation to landscape impact to provide context. Details of the approved levels and heights, and landscaping are also set out.

6.11 This site was put forward for allocation by the Council under the MBLP. In relation to landscape impact under the examination of this Plan it was accepted by the Local Plan Inspector within his 'Interim Findings Report' [CD3.7] that it would have adverse landscape impacts stating at paragraph 110:

*110. EMP1(5) Woodcut Farm is identified as a strategic site that is critical to address a qualitative and quantitative need for high quality business space, notwithstanding that it is acknowledged that it would have adverse landscape impacts....*

6.12 In his 'Final Report of the Examination of the Maidstone Local Plan 2017' [CD3.8], the Inspector discusses 'Woodcut Farm Landscape'. At paragraphs 282 and 283 he considers that design and layout measures are required to provide some mitigation of the development but still considers this is unlikely to negate the adverse landscape

impacts. The Inspector also states that the residual impact needs to be accorded substantial weight when weighed with the economic benefits of the scheme. He states,

*282. The 2016 refusal of planning permission for the scheme on the proposed allocation site was partly on the grounds of landscape impact. I conclude that additional design and layout measures are needed in Policy EMP1(5) to further mitigate the landscape and visual impacts of the development. The modifications recommended below would include such measures.*

*283. As mitigation would be unlikely to negate all of the adverse impact the development would still have adverse landscape impacts. That residual impact needs to be accorded substantial weight when weighed with the economic benefits of the scheme.*

- 6.13 The Inspector's conclusions in relation to landscape and balancing this with the economic benefits are at paragraph 296 as follows:

*"I conclude that the public economic benefits merit considerable weight and that they outweigh the residual harm after mitigation to the landscape (including the setting of the Kent Downs AONB) and visual amenity....."*

- 6.14 At paragraph 297 the Inspector states that modifications are needed *"to minimise the landscape and visual amenity impacts of development on this green field site in accordance with national policy to protect the character and landscape of the countryside and the AONB"*.

- 6.15 Allocation policy EMP1(4) for the site (page 232 of the MBLP) consequently has 10 criteria (nos. 1-10) which relate to 'design and layout' that seek to minimise and provide some mitigation for the adverse landscape impacts the development would inevitably cause. These include restrictions on the amount of built coverage, requirements for structural landscaping and landscape buffers including those of 25m in depth and bunding to the A20, footprint and height restrictions on buildings, and the requirements for the design of buildings.

- 6.16 Outline permission was approved at the site in July 2018 under application 17/502331 following adoption of the MBLP in October 2017 and subsequent reserved matters have been approved as set out under planning history in the LPAs Statement of Case at paragraph 4.6.
- 6.17 Under the committee report for the original outline application (17/502331) [CD4.7] it was acknowledged by the LPA that the development would have a significant impact upon the local landscape and be harmful to the setting of the Kent Downs AONB at paragraph 6.23 but that this could be mitigated to an acceptable level through the landscape mitigation now required under the allocation policy. Like the conclusions of the Local Plan Inspector, and now in the context of the site being allocated in the MBLP so part of the development plan, the harm was not considered sufficient to outweigh the public benefits of the application with the site significantly contributing to the employment needs of the Local Plan/Borough.
- 6.18 Under a subsequent variation to the outline permission (20/505195) where increases in building heights on the west part, and building footprints across the site were approved in March 2021 it was stated under the committee report [CD4.4] on page 1 that the changes,
- “...would not make any obvious noticeable difference in views from the AONB due to the distance and/or the effect of intervening landform and vegetation. In more localised views to the south, the changes would be more apparent but would not make such a difference that the impact upon the landscape and local area would be unacceptable in the context of the site being allocated and the extant permission.”*
- 6.19 It had already been accepted by the LPA that the development would have a significant harmful impact upon the local landscape and be harmful to the setting of the Kent Downs AONB under the original outline but the proposed changes would not be unacceptable in the context of the site allocation and extant permission.
- 6.20 Under both outline applications the LVIA assessed a maximum height of the development of 68.2m AOD. The LVIA for application 17/502331 is at [CD4.12] and this height level is referenced at paragraph 7.48 of the LVIA. However, heights where

restricted and details of levels were required under conditions 3, 4, and 26 respectively which can be seen on the decision notice for 20/505195 [CD4.13] which is the s73 application allowing the tallest building heights.

6.21 Subsequently reserved matters under 21/502637 were submitted where the levels and heights of the buildings were proposed and approved. The approved finished floor levels (FFLs) for the buildings are shown on drawing no. B20139-PPL-XX-XX-DR-C-0602 RevP03 [CD4.14]. The table below sets out the approved FFLs and heights of the buildings and in the last column the subsequent AOD heights.

Unit	Finished Floor Level (AOD)	Building Height	AOD Level
A3	52.5	8.5m	61m
A4	52.75	8.5m	61.25m
A5	52.75	8.5m	61.25m
A6	52.75	8.5m	61.25m
A7	53.2	8.5m	61.7m
A8	53.2	8.5m	61.7m
A9	53.2	8.5m	61.7m
B1	54.25	12m	66.25m
B2	54.25	12m	66.25m
B3	55.5	12m	67.5m
B4	55.5	12m	67.5m

Woodcut Farm Approved FFLs and Building Heights

6.22 This demonstrates that the A units on the west part of the site are between 6.5m and 7.2m below the LVIA level of 68.2m AOD. For the B units on the east part of the site they are between 0.7m and 1.95m lower than the LVIA level. The LPA negotiated and required that the levels were reduced below those in the LVIA to further limit the impact of the development.

6.23 Under application 21/502637 the structural landscaping for the development was

approved which includes the necessary substantial landscaping buffers around the development to help mitigate its impact as can be seen under the approved landscaping masterplan [CD5.9].

6.24 An application (21/506792) which included part of the Woodcut Farm allocation to the west of the entrance and a neighbouring house 'Chestnuts' and its garden was approved in September 2022. As outlined in the committee report [CD4.5] at paragraph 2.02 this was for a building with a site café and offices above; an HGV welfare building and electrical fast charge facility; and bus stop and car parking on the allocated part of the site. On the non-allocated 'Chestnuts' part permission was sought for two buildings, one for office use and the other for light industry or warehousing.

6.25 In relation to landscape impact and specifically the 'extension' of the Woodcut site this is discussed at paragraphs 6.13 to 6.24 of the report. These acknowledge the 'extension' of the site will have a greater impact and cause harm but there was already the presence of development at the site (paragraph 6.13), a 25m landscape buffer would be provided to the front (paragraph 6.14), and the development would be seen in the context of the allocation as an 'infill' rather than a projection of development into the countryside (paragraph 6.15). Paragraph 6.24 concludes that,

*“Overall, the impact of the development would be localised and seen in the context of the approved development surrounding it. It would represent an infill between the allocation rather than an expansion or protrusion into open countryside and there is some development already at the site. It would however increase visible development at the 'Chestnuts' site and cause some harm but for the above reasons it is considered that this would be a low-level of harm to the character and appearance of the countryside. This nonetheless represents some conflict with policy SP17 as this states that development should not cause any harm.”*

6.26 In conclusion on Woodcut Farm, both the MBLP Inspector and the LPA considered development here to have a significant harmful impact upon the local landscape and harmful impact upon the setting of the Kent Downs AONB in views towards it. The permission provides for a significant amount of employment floorspace (45,000m<sup>2</sup>) and the MBLP Inspector considered the strategic site as critical to address a qualitative and

quantitative need for high quality business space and concluded that “*the public economic benefits merit considerable weight and that they outweigh the residual harm after mitigation to the landscape (including the setting of the Kent Downs AONB) and visual amenity*”.

- 6.27 The allocation policy therefore includes substantial measures to aid in limiting the impact of the development which were secured under the subsequent planning permissions. Whilst minor increases in height of some buildings and increases in footprints were approved, the levels and heights were negotiated to be lower than that assessed under the LVIA and significant landscaping was required.
- 6.28 It was accepted the extension of the site would cause harm but it would represent an infill between the allocation rather than an expansion or protrusion into open countryside, there was some development already at the site, and it would benefit from a 25m landscape buffer to the front.



## 7.0 Planning Benefits and Other Material Considerations

7.01 The appellant sets out the following matters within Section 8 (paragraphs 8.2 to 8.11) of the Planning Statement [CD1.1] for the application which they consider are benefits.

### 7.02 Economic

*“There are clear economic benefits of the proposal in that it would deliver a B8 warehouse development in an area where there is a significant need for B8 floorspace, and it is expected to generate close to 200 direct and indirect jobs, resulting in approximately £4.7m GVA annually.”*

*“The proposed development would also contribute to counteracting suppressed demand in the M20 corridor sub-region, enabling implementation of the SELEP’s Global Gateway Strategy and supporting freight/logistics distribution, resulting in wider economic benefits.”*

### 7.03 Social

*“The proposed development would generate a substantial amount of employment during both the construction and operational phases, and it is estimated that the majority of employees would live within the local travel to work area.”*

### 7.04 Environmental

*“The application site is currently of low ecological value, and this would be improved through a landscaping scheme that would deliver biodiversity net gain through native species planting and habitat creation, improve the visual appearance of the site, and contribute screening of the site.”*

*“In terms of sustainability, the proposals also demonstrate that BREEAM “Excellent” can be achieved which exceeds the local policy requirement.”*

*“The proposed drainage strategy would ensure no harm is caused relating to flooding or water contamination, there would be no harm to built heritage assets, and the generation of vehicle movements is forecast to be successfully accommodated within*

*the existing highways network. Related to this, there is a proposed connection to an existing footway/cycleway and the proposed EV charging provision will encourage sustainable travel to/from the site. These are all benefits that weigh in favour of the development.”*

7.05 In attributing weight I have used a scale from low to high as follows:

Limited – Moderate – Significant – Substantial

7.06 In terms of the economic benefits, the MBLP and LPR suitably cater for current and future employment needs and support economic growth and there is not considered to be an unmet need for B8 floorspace. The scale of the economic benefits together with the lack of need for the development means they attract ‘moderate’ weight.

7.07 In terms of the social benefits, the NPPF outlines the social objective of sustainable development is *“to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being.”* The provision of employment is not referred to but it obviously helps to support local communities. Again, the MBLP and LPR suitably cater for current and future employment needs. The scale of employment that would be generated attracts ‘moderate’ weight.

7.08 In terms of the environmental benefits, there is no requirement to provide BNG under the appeal development. The 12.36% net gain for (linear habitats) hedgerows on-site and 14.49% for ‘habitats’ off-site would help to enhance the natural environment and improve biodiversity in line with the environmental objective of the NPPF. This is considered to attract ‘limited’ weight. In reaching this view I am mindful of the Inspector’s appeal decision at Chiswell Green, St Albans [CD4.11] where a significant biodiversity net gain of over 137% for habitats and over 7600% for hedgerows was still only afforded ‘moderate’ weight at paragraph 75.

7.09 Potentially meeting a BREEAM 'Excellent' standard for the building so exceeding the Maidstone Borough Local Plan policy DM2 requirement of 'Very Good' is considered to attract 'limited' weight.

7.10 Mitigating flood or water contamination risk are standard requirements of major development under the Maidstone Borough Local Plan (policy DM3(iii)) and NPPF (paragraphs 169, 174(e), and 183-184) so these are not benefits. The absence of harm to heritage assets and the accommodation of vehicle movements within the existing highway network are not benefits. The provision of EV charging provision is a requirement of the Maidstone Borough Local Plan (policy DM23) and so this is not a benefit.

Maidstone Economic Development Strategy (2021)

7.11 The Council's Economic Development Strategy [CD6.8] sets out 5 strategic priorities and it is considered that two of these are relevant.

7.12 Priority 1 is 'Open for Business' and refers to maximising Maidstone's economic role to create a positive and entrepreneurial environment in which businesses can grow and thrive (page 18). 'Enabling Factors' include the 'provision of business premises and land' and so the development could make a contribution to this priority albeit it would not be significant. The 'Action Plan' (page 25) refers to the Council potentially investing in industrial and warehouse premises to help de-risk new employment sites coming forward but this is once they are, or if they have come forward, and so does not provide support for the proposals. I attach some alignment with this priority 'limited to moderate' weight.

7.13 Priority 4 is 'Inclusive Growth' and refers to 'taking an inclusive approach to growth to ensure that all of our communities can benefit from economic success and prosperity' (page 21). This priority is geared at improving skills in the workforce with reference to specific opportunities for re-training, business start-up, and developing digital/e-commerce competencies. There is no reference to jobs in warehousing and the development would not provide for any of the 'Enabling Factors'. It could contribute to this priority by providing employment although there is no guarantee they would go to residents within the Borough. The contribution the development would have to this

priority is low. It is considered the proposed development would not support any of the actions under the 'Action Plan' (page 28). I attach some alignment with this priority 'limited' weight.

#### Maidstone Strategic Plan (2019-2045)

- 7.14 The Council's Strategic Plan [CD8.1] sets out 4 strategic priorities and it is considered that three of these are relevant.
- 7.15 The priority 'Embracing Growth and Enabling Infrastructure' (page 5) refers to wanting a borough where there is a variety of jobs and ensuring the Council leads and shapes its place as it grows, including leading master planning and investing to bring about high-quality housing and jobs in the Borough. A relevant 'outcome' by 2045 is that "key employment sites are delivered' and between 2023-2038 particular importance is placed on "continuous development of the local plan". The proposed development is not on an allocated employment site or in accordance with the local plan. Therefore, whilst the proposals would provide for general economic growth through jobs, they do not align with this strategic priority in that they are not in accordance with the adopted or emerging local plans.
- 7.16 The priority 'Safe, Clean and Green' (page 6) refers to protecting and where possible enhancing the environment. A relevant 'outcome' by 2045 is "an environmentally attractive and sustainable borough'. The proposed development would cause significant harm to the environment for the reasons set out in the 2<sup>nd</sup> reason for refusal and so would be contrary to this priority.
- 7.17 The priority 'A Thriving Place' (page 7) it refers to the borough being 'open for business' and continuing to grow the local economy with high employment, good local jobs and thriving local businesses. A relevant 'outcome' by 2045 is that "local commercial and inward investment is increased" and between 2023-2038 particular importance is placed on "promoting inward investment in the borough to ensure a diverse employment and business offer". The proposals would have some alignment with this strategic priority in terms of growing the local economy and providing employment which I give 'moderate' weight.

- 7.18 The proposals have some alignment with one priority but do not accord with two others so overall I do not give any weight to the proposals in the context of the Council's Strategic Plan.

## 8.0 Planning Balance

- 8.01 In accordance with Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 this appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.02 The MBLP policies most important to the appeal are considered to be policies SS1, SP17, SP21 and DM30 and are considered to be up to date. The proposed development does not accord with the development plan taken as a whole in that it is not allocated for development and proposes major employment development outside of a designated economic development area, site allocation, and within the countryside contrary to the spatial strategy of the MBLP for economic development (policies SS1 and SP21). I give conflict with these policies 'substantial' weight.
- 8.03 The proposals would result in significant harm to the character and appearance of the countryside and local landscape and significant adverse impacts upon the setting of the Kent Downs AONB contrary to the development plan (policies SP17 and DM30). I give conflict with these policies 'substantial' weight.
- 8.04 In according 'substantial' weight to conflict with the above development plan policies I am mindful of the Inspector's decision for an appeal in Chalgrove, Oxfordshire [CD4.10] where even in the context of the lack of a 5-year HLS, and so where the weight to the relevant policies was reduced, the Inspector still gave conflict with the development plan 'very significant' weight at paragraphs 65 to 68.
- 8.05 For the same reasons as above the proposed development does not accord with and is contrary to the most important policies within the emerging LPR (LPRSS1, LPRSP9, LPRSP11 and LPRQ&D4) to which I give 'significant' weight.
- 8.06 The proposals are contrary to paragraphs 174(b) and 176 of the NPPF to which I give 'significant' weight and contrary to principle SD8 of the Kent Downs AONB Management Plan to which I give 'moderate' weight.

8.07 There is not considered to be unmet need for the development for the reasons set out in Mr Kinghan's evidence.

8.08 Decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The Government considers the planning system must be genuinely plan-led and conflict with the development is clearly a fundamental matter as was considered by the Inspector in the Chalgrove, Oxfordshire appeal decision [CD4.10] where at paragraph 67 it is stated:

*Harm arising from conflict with the development plan, in particular the overarching strategy on the location of development is fundamentally entwined with public confidence in the planning system. Framework paragraph 15 refers to the "...planning system being genuinely plan-led."*

8.09 Paragraph 12 of the NPPF states,

*"Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."*

8.10 The proposals are contrary to the basket of most important policies under the MBLP and do not accord with development plan taken as a whole. The proposals are also contrary to the basket of most important policies under the emerging LPR. The proposals should therefore be refused unless material considerations indicate otherwise. Other material considerations are the economic, social and environmental benefits of the development.

8.11 The economic benefits are considered to attract 'moderate' weight, the social benefits 'moderate' weight, and the environmental benefits 'limited' weight. I give 'limited to moderate' weight to some alignment with the priorities of the Council's Economic Development Plan.

- 8.12 I give 'substantial' weight to the conflict with the development plan whilst noting the fundamental principle that the planning system should be genuinely plan led as stated under the NPPF. I give 'significant' weight to the conflict with the policies within the emerging LPR due to its advanced stage.
- 8.13 Overall, the benefits and the weight attached to them are not of a scale to outweigh the conflict with the development plan, to which I give 'substantial' weight. They are not sufficient benefits or material considerations that warrant a decision other than one that is in accordance with the development plan.



## 9.0 CONCLUSION

- 9.01 In my Proof of Evidence as set out above, I consider the impact of the outline planning application for the erection a building for storage and distribution (Class B8 use) with a floorspace up to 10,788sqm (Gross External Area), ancillary offices, associated car parking, HGV parking, landscaping and infrastructure (All matters reserved except for access) at Land North of the A20, Ashford Road, Hollingbourne, Kent, ME17 1XH.
- 9.02 My Proof of Evidence should be read in conjunction with the evidence provided by Mr Peter Radmall on landscape and Mr Matt Kinghan on employment land supply and need. I rely on their evidence on these issues in my own evidence. My evidence covers *inter alia* planning matters not covered by the other expert witnesses for the Council, including the overall planning balance for the Appeal proposal.
- 9.03 In my evidence above, I have demonstrated that the basket of most important development plan policies to the determination of this appeal are not out of date and carry full weight.
- 9.04 I have demonstrated the appeal development is contrary these development plan policies and is contrary to those equivalent policies in the emerging Local Plan Review.
- 9.05 I have demonstrated the appeal development is not in accordance with relevant sections of the NPPF or the Kent Downs AONB Management Plan.
- 9.06 I have set out the weight I attribute to the benefits of the development and other material considerations and the weight I attribute to the conflict with the development plan and the emerging Local Plan Review.
- 9.07 In accordance with Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 this Appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.08 It is my professional opinion that the benefits of the development and other material

considerations would neither individually nor collectively be sufficient to outweigh the conflict with the development plan or warrant a decision other than one in accordance with the development plan.

- 9.09 The Council defends its reasons for refusal and invites the Inspector to dismiss the Appeal.

## A1 SUMMARY OF PROOF

A1.1 This Proof of Evidence should be read in conjunction with the evidence provided by Mr Peter Radmall on landscape matters, and Mr Matt Kinghan on employment land supply and need. I rely on their evidence on these issues in my own evidence.

A1.2 It covers *inter alia* planning matters not covered by the other expert witnesses for the Council, including the overall planning balance for the appeal proposal.

A1.3 Section 3 sets out planning policy from the Maidstone Borough Local Plan 2017 (MBLP) and specifically the policies considered to be most important to the determination of the appeal as:

Policy SS1: Maidstone Borough Spatial Strategy

Policy SP17: Countryside

Policy SP21: Economic Development

Policy DM30: Design Principles in the Countryside

A1.4 It sets out how these policies are considered to be up to date and carry full weight.

A1.5 Section 3 also sets out the equivalent relevant policies within the emerging Maidstone Local Plan Review (LPR) and how these attract significant weight.

A1.6 Section 3 finally sets out relevant sections of the Kent Downs AONB Management Plan and the NPPF.

A1.7 Section 4 sets out the main issues for the appeal centred on the LPAs reasons for refusal as being that:

1. The development would be contrary to the Spatial Strategy of the Maidstone Borough Local Plan 2017 for the location of economic development and there is no current or future need for the development.

2. The development would cause significant harm to the character and appearance of

the countryside and landscape in the local area and have a significant adverse impact on the setting of the Kent Downs AONB in views towards the scarp slope.

3. Insufficient information has been submitted to demonstrate that the off-site 'habitat' biodiversity net gain proposed by the applicant can be delivered.

A1.8 This section clarifies that reason for refusal 3 has been addressed through the submission of additional information and subject a legal agreement and/or conditions.

A1.9 Section 5 substantiates reason for refusal 1 and how the appeal proposals are contrary to the relevant MBLP policies and the relevant policies of the emerging LPR.

A1.10 In summary, the appeal proposals are on an undeveloped greenfield site falling within the 'countryside'. There are no strategic MBLP policies that allow for major employment development on such sites and outside of designated economic development areas, site allocations, or defined settlements. The proposals are therefore contrary to policies SS1 and SP21 of the MBLP. The proposals do not represent the expansion of an existing rural business at the site and therefore policy DM37 is not relevant to the appeal. The proposals are therefore contrary to the development plan. For the same reasons, the proposals are contrary to the relevant LPR policies.

A1.11 Relying on the evidence of Mr Kinghan on employment need it is demonstrated there is no need for the development under the MBLP or the LPR.

A1.12 Section 6 substantiates reason for refusal 2 and how the appeal proposals are contrary to the relevant MBLP policies, the relevant policies of the emerging LPR, and relevant sections of the NPPF and the Kent Down AONB Management Plan.

A1.13 Relying on the evidence of Mr Radmall, the appeal proposals would result in significant harm to the character and appearance of the countryside and landscape within the local area resulting from the coverage and scale of the development and its prominence in local views contrary to policy SP17(1) of the MBLP and paragraph 174(b) of the NPPF. The evidence also demonstrates the impacts would not be appropriately mitigated contrary to policy DM30(ii) of the MBLP. The impact of the appeal proposals on the

setting of the AONB would be significantly adverse and the proposals are therefore contrary to policy SP17(6) of the MBLP, paragraph 176 of the NPPF, and principle SD8 of the Kent Downs AONB Management Plan. For the same reasons, the proposals are contrary to the relevant LPR policies.

- A1.14 Section 7 sets out the planning benefits of the proposals and other material considerations and the weight attributed to them. It sets out that the economic benefits are considered to attract 'moderate' weight, the social benefits 'moderate' weight, and the environmental benefits 'limited' weight. It gives 'limited to moderate' weight to some alignment with the priorities of the Council's Economic Development Plan.
- A1.15 Section 8 carries out the planning balance and concludes by giving 'substantial' weight to the conflict with the development plan in the context of Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the fundamental principle that the planning system should be genuinely plan led as stated under the NPPF. It gives 'significant' weight to the conflict with the policies within the emerging LPR due to its advanced stage.
- A1.16 Overall, the benefits and the weight attached to them are not of a scale to outweigh the conflict with the development plan, which is given "substantial' weight. They are not sufficient benefits or material considerations that warrant a decision other than one that is in accordance with the development plan.