

LAND AT ASHFORD ROAD, MAIDSTONE

OVERARCHING STATEMENT OF COMMON
GROUND

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1 INTRODUCTION

1.1 This Overarching Statement of Common Ground ('SoCG') is agreed between the two main parties to the Appeal by Wates Developments Ltd ('The Appellant') against the decision of Maidstone Borough Council ('The Council') to refuse planning permission for the development of an employment / logistics building at Land North of the A20, Ashford Road, Maidstone ('The Site').

1.2 The SoCG follows the guidance provided by the Planning Inspectorate ('PINS') on the preparation of such statements¹.

1.3 The agreed address for the Appeal is:

LAND NORTH OF THE A20, ASHFORD ROAD, HOLLINGBOURNE, KENT, ME17 1XE

1.4 The agreed description of the Development is:

Outline 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)

1.5 The Application has reference number 23/500899/OUT.

¹ <https://www.gov.uk/government/publications/statement-of-common-ground/statements-of-commonuncommon-ground-for-inquiries>

2 PLANS

Plans for determination

- 2.1 Three plans form the formal plans for determination, and were before the Council at the time of determination:

Plan description	Plan reference	Revision number
Location Plan	1:1250 @ A1	
Location Plan	1:500 @ A1	
Proposed Site Access Arrangements	IT15323-GA-001* ²	K

- 2.2 In addition, an indicative masterplan and landscape masterplan was submitted with the Application, however appearance, landscaping, layout and scale are reserved matters.

Plan description	Plan reference	Revision number
Illustrative masterplan	19512 - SBR- ZZ-XX-DR-A-83100	5
Illustrative landscape masterplan	P21-3546_06	E

² This document can be found within 'ITB15323-014 TN 2nd Response to National Highways Comments' as Rev K issued on 12th June. This will be within the Core Documents for the Appeal.

3 RELEVANT PLANNING HISTORY

3.1 Introduction

- 3.1 Planning history for the neighbouring Woodcut Farm development as well as the wider area (including a significantly larger application known as Kent International Gateway) is relevant to this determination.



3.2

Figure 1 – Woodcut Farm allocation (purple) against Appeal Site Boundary (blue).

Source - Landstack

3.2 Kent International Gateway

- 3.3 A planning application for “*Outline planning permission for the construction of hardstanding areas to form rail/road freight interchange with freight handling equipment, new railway sidings in part with acoustic enclosure, earthworks and retaining walls, buildings for Class B8 warehousing and Class B1 uses, access works, internal roads and bridges, loading and manoeuvring areas, car and lorry parking, ancillary truck-stop and gatehouse security facilities, electricity sub station, realignment of public rights of way and watercourses, drainage works and*

landscaping with access to be considered at this stage and all other matters reserved for future consideration” was submitted in 2007 and dismissed by the Secretary of State at appeal on 5 August 2010. The Site subject of this appeal formed a very small part of the wider appeal proposals. A Plan showing the indicative layout proposed can be found **within Core Documents**³.

- 3.4 The Inspector’s Report and the Secretary of State’s Decision can be found **within the Core Documents**.
- 3.5 The parties agree that the Kent International Gateway decision is a material consideration in the determination of this Appeal, however, given the substantial differences in the scale of the development and the changes in national and local policy and guidance, it is of very limited relevance.

Woodcut Farm

- 3.6 The parties agree that the development of Woodcut Farm is a material consideration for the determination of this Appeal.
- 3.7 Woodcut Farm is an allocation in the Local Plan for up to 49,000sqm of employment land. Policy EMP1(4) of the Local Plan set out the criteria for that development and recognised the importance of office use (the former B1a and B1b) providing at least 10,000sqm of that use and the importance of the sites countryside and AONB context. The allocation on the Local Plan policies map is approximately 65m from the AONB at its closest point at the western end of the allocation where the land is defined as a ‘landscape area’ in the Local Plan and where development is not permissible. No development has been approved here and the land is secured as woodland and wooded pasture under a legal agreement. The nearest part of the allocation where development is permissible is approximately 115m away at its nearest point. The nearest approved buildings are approximately 195m away (Unit A1) with the remainder ranging from 240m to 380m away heading eastwards across the site.
- 3.8 The Policy sets out criteria for location and size of buildings as well as matters such as internal landscaping, landscape buffers, and the appearance, orientation and height of buildings.
- 3.9 It is agreed that the development of Woodcut Farm is coming forward at pace and in a phased manner.
- 3.10 An application upon the allocated site (reference 15/503288/OUT) was refused consent by the Council and a subsequent appeal was withdrawn.
- 3.11 A second outline application was submitted under reference 17/502331/OUT for “*Outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, with a maximum floor space of 45,295 square metres (Access being*

³ A Core Documents list will be agreed prior to the Inquiry

sought) (Resubmission of 15/503288/OUT)”. The application was approved on 20 July 2018.

- 3.12 Since that approval, several applications for Reserved Matters and amendments to the application have been approved.
- 3.13 Application reference 20/505195/OUT was allowed for “*Section 73 - Application for Variation of Condition 3 to allow buildings on the eastern part of the site to have a footprint up to 10,000sqm, and variation of Condition 4 to allow buildings on the western part of the site to have a footprint up to 4,800sqm, a ridge height up to 10.5m, and to remove the requirement for buildings to be orientated end-on to the M20 motorway pursuant to application 17/502331/OUT - (Outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, with a maximum floor space of 45,295 square metres (Access being sought))*”. The Committee Report is **within Core Documents**.
- 3.14 Phase 1 under reference 21/502637/REM for “*Approval of Reserved Matters Phase 1 (Layout, Scale, Appearance and Landscaping) to create the development platforms across the entire site, and 23,270 sqm of flexible Use Class B1(c)/B8 employment floorspace, comprised of 7no. units on Plot A totalling 5,450 sqm (Units A3-A9) and 4no. units on Plot B totalling 17,820 sqm (Units B1-B4) pursuant of 20/505195/OUT*” was granted consent on 6 August 2021. The Delegated Report is **within Core Documents**.
- 3.15 Phase 2 under reference 21/506791/REM for “*Approval of Reserved Matters for Phase 2 (Appearance, Landscaping, Layout and Scale being sought) to create 7,916 sqm of flexible Use Class E(g)(iii)/B8 employment floorspace, comprising of 4 units (A1, A2, A3 and A13) on Plot A, pursuant of 21/506790/OUT*” was granted consent on 27 October 2022. The Delegated Report is **within Core Documents**.
- 3.16 Phase 3 under reference 23/502387/REM for “*Approval of Reserved Matters (appearance, landscaping, layout and scale being sought) for Phase 3 for creation of 8,597 sqm of industrial floorspace (Use Class B8), comprising of 3 units (A10, A11 and A12) pursuant to 21/506790/OUT*” was granted consent on 8 September 2023. The Delegated Report is **within Core Documents**.
- 3.17 A subsequent application under reference 21/506792/HYBRID for “*Hybrid Planning Application for demolition of existing building (Use Class C3) and redevelopment for a mixed commercial scheme. Full planning application comprising of erection of 2 no. units (Unit E2 - light industry/B8 and Unit D1 - offices/coffee shop), HGV fast charge facility, bus stop, hard and soft landscaping, and associated infrastructure. Outline planning application comprising of erection of 1 no. unit (Unit E1 - offices) with appearance matter reserved*” was granted consent on 22 September 2022. The Committee Report is **within Core Documents**.

4 PLANNING POLICY

Development Plan

4.1 The relevant development plan for the determination of this Appeal consists of the following:

- Maidstone Local Plan 2011 – 2031
- Kent Minerals and Waste Local Plan 2013 – 2030 as amended Early Partial Review (2020)

4.2 The Draft Local Plan Review ('LPR') has been submitted for examination but is yet to be adopted. The weight afforded to the emerging Plan is a matter to be assessed by the respective Planning Witnesses at evidence stage.

Relevant Policies

Maidstone Local Plan 2011 – 2031

4.3 It is agreed that the following policies are relevant to the determination of the Appeal. Policies SS1, SP17, and SP21 marked * are agreed as being the most important policies for determining the appeal. There is disagreement over whether policy DM30 is a 'most important policy'. The LPA considers it is and the Appellant does not.

4.4 The Council has confirmed that the reference to policy DM20 within the Council's reason for refusal 2 is an error and should refer to policy DM30(ii).

Policy reference	Policy Title	Summary of Policy	of Compliance
*SS1	Maidstone Borough Spatial Strategy	Sets out the quantum of development to be provided across the Borough and how this will be met through the settlement hierarchy and the allocation of sites as shown on the Local Plan policies map. It also identifies a "prestigious business park at Junction 8 of the	This is a matter of disagreement between the parties.

		M20” which is the Woodcut Farm allocation.	
*SP17 (1)	The Countryside	The policy requires development in the countryside to accord with other policies in the plan and not result in harm to the character and appearance of the area	This is a matter of disagreement between the parties.
*SP17(4)	The Countryside	Development should not have a significant adverse effect on the setting of the AONB	This is a matter of disagreement between the parties.
*SP21	Economic Development	Support for economic development through the allocation of specific sites and otherwise through set criteria.	This is a matter of disagreement between the parties.
SP23	Sustainable Transport	Seeks to mitigate the impact of development where appropriate on the local and strategic road networks.	Yes, the impact upon the local and strategic roads networks is acceptable.
EMP1	Employment Allocations	Refers to employment allocations EMP1(1) to EMP1(4) to deliver approximately 75,000m2 of	The appeal site is not within an employment allocation.

		employment floorspace.	
ID1	Infrastructure Delivery	Requires any necessary infrastructure to support development and sets out the Council priorities.	Yes, the development does not generate a need for any infrastructure listed in the policy.
DM2	Sustainable Design	Requirements for BREEAM Very Good	Yes, the development will exceed this level and meet BREEAM Excellent
DM6	Air Quality	Requires an air quality impact assessment and any necessary mitigation.	Yes, subject to mitigation set out in the Air Quality Impact Assessment.
DM8	External Lighting	Requires minimum levels of lighting and seeks to prevent detrimental impacts.	Yes, could be achievable with suitable details provided should the appeal be allowed.
DM21	Assessing the transport impacts of development	Ensure that traffic impacts are acceptable and seeks public transport where necessary.	Yes, the impact upon the local and strategic roads networks is acceptable and the Transport Assessment has been signed off by both Kent County Council and National Highways
DM30	Design principles in	Sets out criteria for acceptable	This is a matter of disagreement between the parties.

	the countryside	development in the countryside	
DM37	Expansion of existing businesses in rural areas	Sets criteria for the sustainable growth of existing rural businesses in the rural area including the scale of development, integration into the landscape, traffic generation and impact on amenity	There is a disagreement between the parties as to whether this policy is relevant. The appellant considers it is with which the LPA disagrees.

Kent Minerals and Waste Local Plan 2013 – 2030 as amended Early Partial Review (2020)

Policy reference	Policy Title	Summary of Policy	Compliance
CSM5	Land-won Mineral Safeguarding	Sets out safeguarded minerals as defined on the Policies Maps	Yes, as in accordance with policy DM7.
DM7	Safeguarding Mineral Resources	Sets out circumstances where planning permission can be granted for non-mineral development within safeguarding areas	Yes, the proposals invoke the exemption under policy DM7(2 & 3) and no objections have been raised by the Kent County Council Minerals and Waste department.

Other Relevant Documents

4.5 The following documents are agreed to be material to the determination of this Appeal:

- NPPF 2023 and PPG
- LPR and its evidence base

- Kent Downs AONB Management Plan (2021-2026)
- Maidstone Borough Council Landscape Character Assessment (2013)

5 AREAS OF AGREEMENT AND DISAGREEMENT

5.1 Matters Agreed

- 5.1 It is agreed that the Site was included within the wider Leeds Langley Corridor area at the Regulation 18b consultation of the Local Plan Review. However, the Site was removed from the Regulation 19 and is not proposed to be allocated in the Local Plan Review. The site was promoted by the Appellant as an omission site at the LPR Examination.
- 5.2 It is agreed that the Site is located to the south of Junction 8 of the M20 and is adjacent to but outside employment allocation EMP1(4). The Site is not allocated in the Local Plan or draft Local Plan Review.
- 5.3 There are no designations that cover the Site other than the mineral safeguarding. However, it is agreed that the proposals invoke the exemption under policy DM7(2 & 3) of the Kent Minerals and Waste Plan and no objections have been raised by the Kent County Council Minerals and Waste department.
- 5.4 It is agreed the proposals are acceptable with regards to highways impacts and no objections have been raised by National Highways or the Local Highways Authority (Kent County Council).
- 5.5 It is agreed the proposals would not have any harmful impact upon any protected species subject to mitigation.
- 5.6 It is agreed the proposals would not have any harmful impact upon air quality subject to mitigation.
- 5.7 It is agreed that the proposals would not have any harmful impact in respect of surface water flood risk subject to mitigation.
- 5.8 As per the findings of the submitted Heritage Assessment (January 2023), the site is located within 1km of 13 Listed Buildings, a Conservation Area and Registered Park and Garden. However, it is agreed that the development does not fall within the setting of any nearby listed buildings due to the distances involved and intervening landform and development, nor would it affect any conservation areas, or Registered Park and Garden for the same reasons. As the development would not affect the settings of any of the above cited heritage assets it would not have any impact upon their significance. As such, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) is not applicable to the determination of this Appeal.
- 5.9 The Site is located circa 520m away from the Kent Downs AONB Boundary at its nearest point.
- 5.10 The Site is located within the setting of the AONB.
- 5.11 The Site is not within a valued landscape within the NPPF definition.

- 5.12 It is agreed that ensuring key employment sites are delivered and that local commercial and inward investment is increased, are sought under the Council’s Strategic Plan 2019-2045 under the ‘Embracing Growth and Enabling Infrastructure’ and ‘A Thriving Place’ priorities. Between 2023-28 particular importance is placed on ‘the continuous development of the local plan’.
- 5.13 It is agreed that protecting and where possible enhancing the environment is part of the Council’s Strategic Plan under the ‘Safe, Clean and Green’ priority.
- 5.14 It is recognised that there is a segment of the logistics sector with requirements for sites with direct access to motorway links and national, regional and international markets.
- 5.15 The impact of the Covid-19 pandemic resulted in an increased demand for new warehouse and logistics spaces.
- 5.16 Following correspondence between the LPA and Appellant, including an additional submission on the 21st November 2023, it is agreed by both parties that refusal reason 3 (off-site habitat net gain) has been overcome, subject to being secured under a legal agreement. The LPA sent written confirmation of this to PINS on 4th December 2023.

5.2 Matters not agreed

Matter	Appellant’s position	Council’s position
Need for development	It is the Appellant’s position that there is demonstrable quantitative and qualitative need for the development and that neither the existing nor emerging plans address this need. It is the Appellant’s position that the impact of the Covid-19 pandemic has resulted in an increased demand for new warehouse and logistics spaces.	The Council considers that the Local plan and emerging Local Plan Review address the Borough’s need for warehousing. The Council agrees the Covid-19 pandemic resulted in an increased demand for new warehouse and logistics spaces but this has now fallen since the ‘covid peak’.
Landscape impact	The Appellant considers that the effect of the development on landscape character is highly localised and limited and that mitigation will reduce the	The Council considers that the effect on the appeal site would not be limited. Whilst the effect on landscape character would be localised in terms of its spatial extent, the Council considers it to

	effects of development over time	be significant. The Council agrees that the proposed screen planting could reduce some of the visual effects over time, but that the residual effects would remain significantly adverse
Impact on AONB Setting	The Appellant accepts that there will be limited effects on the setting of the AONB however this needs to be considered in the context of the site and its surroundings. The Appellant considers that there are no material impacts on views from the AONB. There are limited visual effects on views towards the AONB, however this impact would be moderated.	The Council considers that there is significant adverse landscape and visual impact on part of the setting of the AONB. Effects on views towards the AONB would be significant and cannot be described as limited. The degree of moderation achieved by the proposed mitigation would be very limited, such that the residual effects on these views would remain significantly adverse.
Planning balance	The Appellant accepts that there is harm associated with the development. However, the substantial benefits associated with the development clearly outweigh this harm to the level that planning permission should be granted	The Council does not agree the benefits of the development are substantial. It considers that the significant harm generated and conflict with the Development Plan clearly outweigh the benefits or any material considerations, and that planning permission should be refused.
Economic Benefits	The Appellant considers that achieving a boost in economic productivity of the Borough and residents is a key priority for the Council. The Appellant considers that the borough is hampered by the supply of available modern fit for purpose warehousing and	The Council considers one priority in the Strategic Plan is 'embracing growth and enabling infrastructure' which is stated as being achieved through the local plan and delivering key employment sites. Another priority in the Strategic Plan is 'safe,

	<p>logistic sites close to strategic transport networks.</p>	<p>clean and green' stated as being achieved through protecting and where possible enhancing the environment and an environmentally attractive borough. The Council considers that the Local plan and emerging Local Plan Review address the Borough's need for warehousing.</p>
<p>Woodcut Farm Maximum Building Height</p>	<p>The LVIA submitted as part of the outline application assessed a maximum building height of 68.2m AOD which was considered acceptable by the Council and the Council's landscape officer.</p> <p>Subsequent reserved matters have been approved with building heights up to 67.5m AOD and the remaining phases which have yet to receive reserved matters consent could be built up to 68.2m AOD.</p>	<p>The LVIA assessed a maximum building height of 68.2m AOD but the outline permission set building heights by condition and also required levels to be submitted by way of condition. The subsequently approved buildings heights are lower than 68.2m AOD through the reserved matters.</p> <p>The only phase yet to receive consent is the land immediately north of the appeal site and levels have been approved here at 55.3m AOD. Building heights are restricted to 12m by condition so they would be a maximum of 67.3m AOD.</p>

6 CONDITIONS / S106

- 6.1 An agreed set of conditions are to be agreed separately in the event the Appeal is allowed.
- 6.2 The Appellant will work with the Council to agree a S106 agreement in respect of a Travel Plan monitoring fee and securing the off-site biodiversity net gain for at least 30 years including its implementation, management and on-going monitoring. Should agreement not be reached, the Appellant will provide a Unilateral Undertaking to address any requirements that cannot be addressed through conditions.

7 SIGNATURES

SIGNED ON BEHALF OF MAIDSTONE BOROUGH COUNCIL

A handwritten signature in black ink, appearing to read 'Richard Timms', with a long horizontal stroke extending to the right.

NAME: Richard Timms

DATE: 15 December 2023

SIGNED ON BEHALF OF WATES DEVELOPMENTS LTD:

A handwritten signature in black ink, appearing to read 'Asher Ross', written in a cursive style.

NAME: Asher Ross

DATE: 15 December 2023