

Application Number	16/00629/AS
Location	Units 1 to 3, Paddocks Farm, Bethersden Road, Hothfield, Ashford, Kent, TN26 1EN
Grid Reference	96374/44140
Parish Council	Hothfield
Ward	Downs West
Application Description	Application to remove/vary conditions on planning approval 06/00665/AS - Removal of condition 5 (external storage); Variation of condition 6 to allow for the hours for the operation of machinery and processes to take place between 0700 and 1800hrs Monday-Friday and Saturday 0700 and 1200hrs; Variation of condition 9 to allow for external lighting installed on units 1-3 (in retrospect) to be retained.
Applicant	MJ Allen Holdings Ltd; Units 1 to 3, Paddocks Farm, Bethersden Road, Hothfield, Ashford, Kent, TN26 1EN
Agent	N/A
Site Area	N/A

(a) 7/4R (b) Hothfield R (c) ESM -

Re-consultation

(a) 7/- (b) - (c) ESM X

Introduction

1. This application is reported to the Planning Committee at the request of the Ward Member, Cllr. Krause.

Site and Surroundings

2. The application site is located within a small group of former agricultural buildings to the southern side of Bethersden Road, just south-west of the village of Hothfield. The site as a whole contains 4 units, three of which have a lawful B2 use for metal fabrication and the fourth a B1 light industrial use. This application relates to the 3 B2 units. Unit 4 which has the light industrial

use adjoins The Old Barn which is in residential use. There are 2 further dwellings in this complex of converted agricultural buildings. Immediately to the west is the building and yard occupied by Ashford Woodturners. To the south / west of the site is a substantial grass bund comprising part of the Hothfield Flood Detention Scheme beyond which is open agricultural land. The application site lies outside of Flood Zones 2 and 3.

3. The site lies outside of the built confines of the village and within the countryside / the Hothfield Heathy Farmlands Landscape Character Area. This states that the countryside around the site is characterised by gently sloping farmland with a mix of medium sized arable fields and woodland.

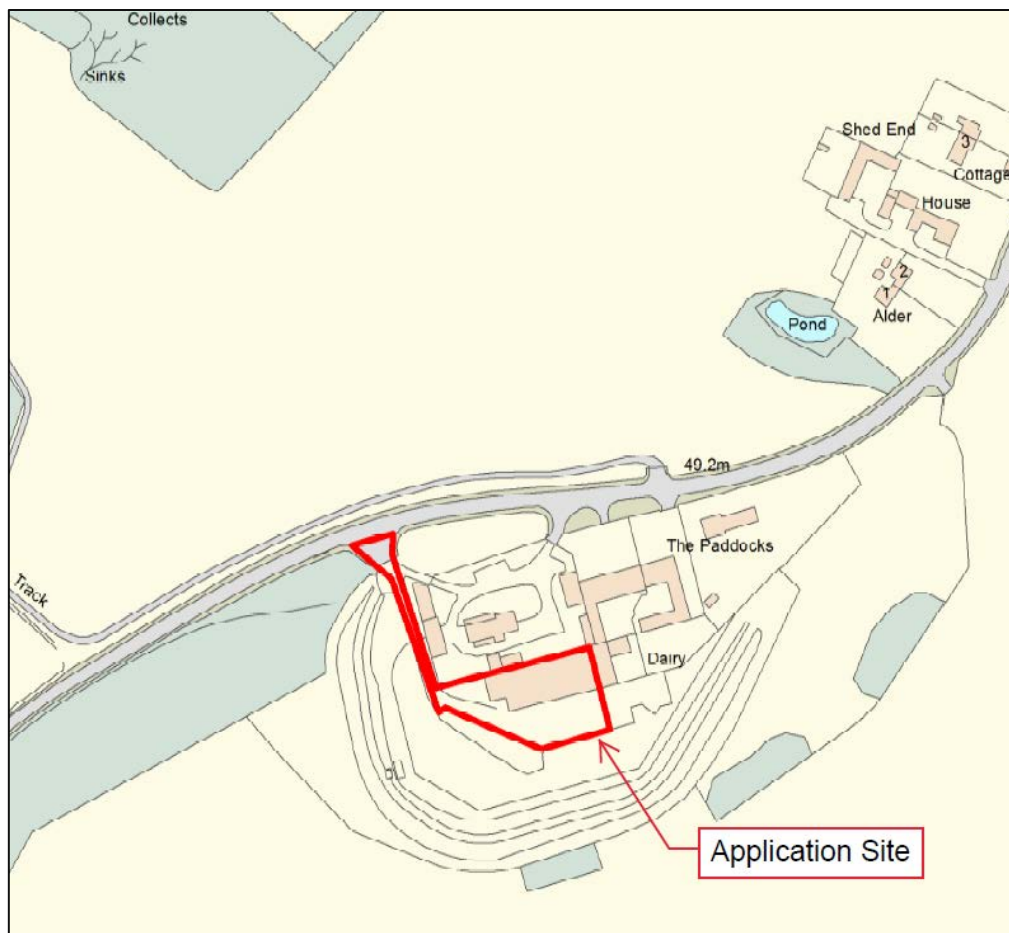


Figure 1: Site Location

Proposal

4. Planning permission is sought for the removal of condition 5 of planning permission 06/0665/AS which prevents external storage taking place on the site. Planning permission is also sought to vary condition 6 to allow operation of machinery and processes to take place between 0700 and 1800hrs Monday-Friday and 0700 and 1200hrs on Saturdays (current permitted hours

are 0800-1800 Monday-Friday & 0800-1200 on Saturdays) and vary condition 9 to allow for the installation of external lighting which has been installed on units 1-3. All of the proposed variations are retrospective with the lights already in place, the applicant already operating from 7am and external storage taking place on the site.

5. This application has been submitted following an enforcement investigation into breaches of planning control which were alleged to have occurred on site. Initially the application proposed working hours starting at 5am but this was subsequently amended to 7am following concerns raised by officers. The initial consultation responses are based upon a proposed 5am start.

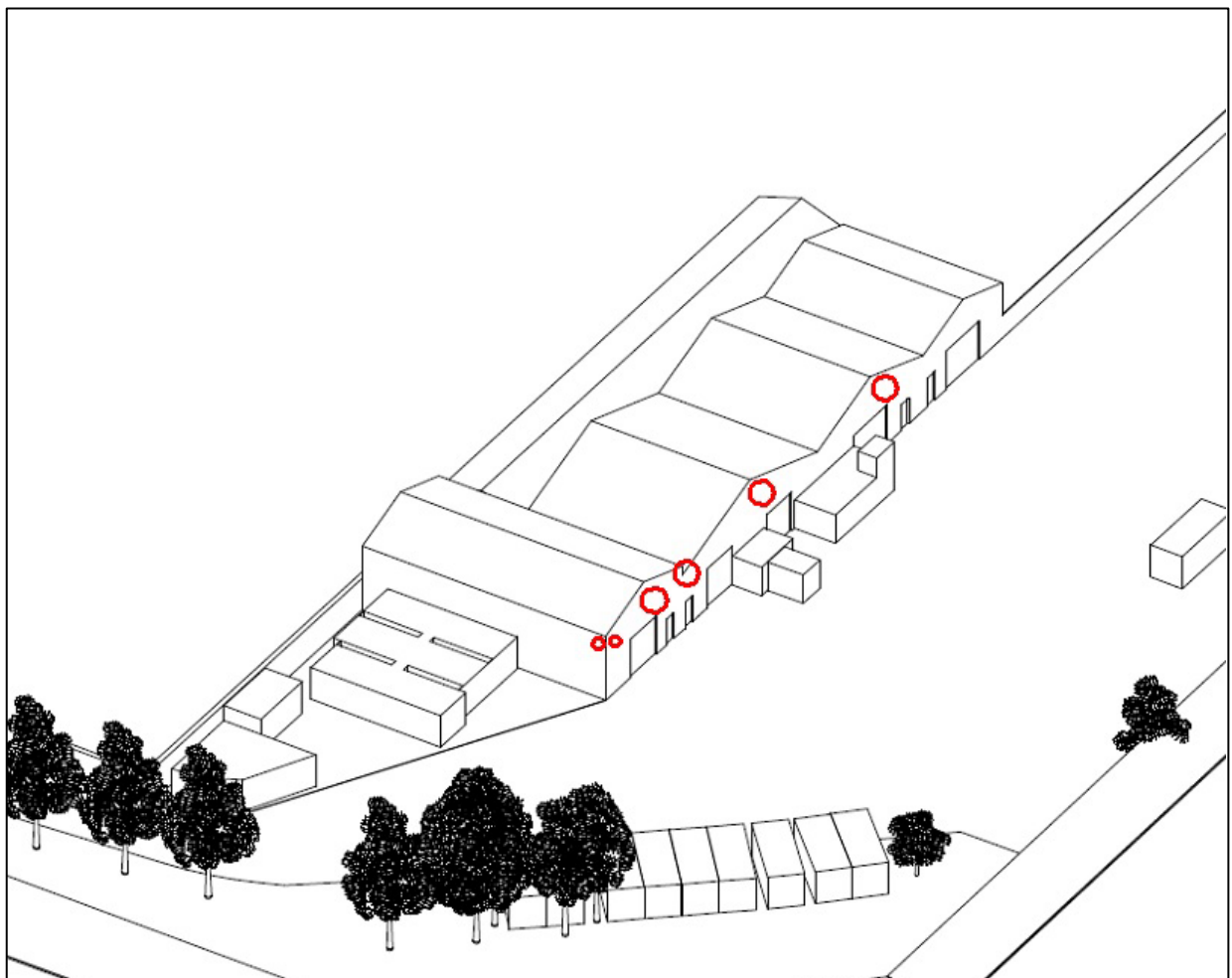


Figure 2: Location of Lights



Figure 3: Existing lights on Units 1 to 3

Planning History

15/01468/AS Erection of building for steel fabrication and associated parking area - Permitted

06/00665/AS Proposed continued use of premises for use class B2 (steel fabrication) - Permitted

05/02093/AS Continued use of premises for the manufacture of bespoke exhaust for vehicles and plant within Class B1 of the Town & Country Planning (Use Classes) Order 2005 - Permitted

99/01595/AS Change of use and alteration of vacant agricultural building to a storage ancillary to B1 use: Removal of condition 4 - Permitted

98/01448/AS Change of use and alteration of vacant agricultural building to storage ancillary to B1 use (permitted under 98/0620/AS) - Permitted

98/00620/AS Change of use and alteration of two agricultural buildings to (class B1) business use light industrial - Permitted

Consultations

Plans and details as originally submitted with a proposed 5am start time

Ward Member: Is Member of the planning committee.

Hothfield Parish Council: Object stating:

“The adjacent neighbours are concerned about the 5am start and consider the company should not commence any activity before 8am. The applicant should keep to all the other existing planning conditions.”

Neighbours: 7 neighbours consulted; 4 letters of objection received raising the following:

- The character of the complex is mainly residential. To allow industrial operations of any kind during the hours when residents sleep is not justifiable.
- Object strongly to the despatch of heavy goods vehicles at 5am due to increased noise and disturbance to residents.
- The company in question is already starting operations outside its permitted hours and continue to breach planning conditions imposed to protect residents' amenity.
- Company has worked outside permitted hours for 20 years.
- Company has installed 3 portable cabins and outside lighting without permission.
- Company has stored items in the open air for years.
- Business has grown to a point where it is no longer suitable for a light industrial site in a residential area.
- Conditions requiring work only between 7am and 6pm should be rigorously enforced.
- No objection to the lighting as has not proved to be a nuisance to residents. However, what protection is there to residents that this won't be replaced by more powerful lighting in the future?
- Plans for the new building clearly show where any outside storage should be restricted to (i.e. “racked” storage area to the west of the site, away from residential property). Not clear if removal of condition would actually mean that the business has more rights to store materials externally over and above those shown in application 15/1468/AS for the new steel fabrication building.
- Existing condition covers public holidays and this has been omitted on the new application.

- Unit 4 has always been treated differently by planners as it acts as a “buffer zone” between the B2 units (Units 1-3) and the residential properties. It does not have B2 use.
- Granting these units the same hours of operation as the new building will increase the chance of the overspill car park from being used at an earlier hour than would generally be the case.
- Previous business operated on a much smaller scale to the present owners. Noise resulting from early start by Data Tooling was therefore not an issue.
- One of the original conditions was to provide sound proofing on units 1 -3 in perpetuity. This has never happened.

Re-consultation following an amendment to the working hours from 5am to 7am

Hothfield Parish Council: No additional comments received.

Neighbours: 7 neighbours consulted; no representations received.

Environmental Services Manager – Raise no objection stating:

“With respect to the application 16/00629/AS and variation of condition 6 of the previous consent 06/00665/AS, Environmental Health would like to raise the following comment.

Subject to the retention (and minor update of the relevant BS4142 standard from BS4142:1997 to BS4142:2014) of the following condition;

The rating level of the noise emitted from the site shall not exceed the existing background noise level expressed as LA90 (10 mins) by 3dB at any time when measured at the nearest noise sensitive premises. The measurements and assessment shall be made according to BS4142:1997 or any superseding standard.

We wish to raise no objection. We acknowledge that this will result in a slight increase in noise levels between 0700 and 0800 (which excludes Sundays and Bank Holidays) however with the planned new building and move of the ‘noisier’ equipment to this building once constructed this should prove to be acceptable.”

Planning Policy

6. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites

DPD 2010, the Urban Sites and Infrastructure DPD 2012 and the Chilmington Green AAP 2013. On 9 June 2016 the Council approved a consultation version of the Local Plan to 2030. Consultation commenced on 15 June 2016 and finished on 10 August 2016. At present the policies in this emerging plan can be accorded little or no weight.

7. The relevant policies from the Development Plan relating to this application are as follows:-

Ashford Borough Local Plan 2000

GP12 Protecting the Countryside

Local Development Framework Core Strategy 2008

CS1 Guiding Principles

CS7 The Economy & Employment Development

Tenterden & Rural Sites DPD 2010

TRS17 Landscape Character and Design

Local Plan to 2030

SP1 Strategic Objective's

SP3 Strategic Approach to Economic Development

ENV3 Landscape Character and Design

ENV4 Light Pollution and Promoting Dark Skies

8. The following are also material to the determination of this application:-

Supplementary Planning Guidance/Documents

Landscape Character Assessment

Dark Skies SPD

Government Advice

National Planning Policy Framework 2012

9. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF.
10. National Planning Policy Guidance

Assessment

11. The main issues for consideration are:
 - Impact on Visual Amenity
 - Impact upon Residential Amenity

Impact upon Visual Amenity

12. The external lights fitted to the building are small and are not visible from outside the site. With controls in place which prevent the lights from being on outside of working hours I do not consider that the lights result in an unacceptable level of light pollution which is detrimental to the character and appearance of the surrounding countryside. The lights are required for health and safety reasons and their use can be controlled by condition. The condition preventing further lighting would remain in place so that the Council retains control over this.
13. Condition 5 of planning application 06/00665/AS prevented the external storage of material on site. The reason for imposing this condition was in the interests of visual amenity. Recent planning approval 15/01468/AS for a new steel fabrication building has allocated an external storage area on site to the south west of the existing units. It is not proposed to use any other part of the site for external storage of materials and conditions have been imposed which prevent external storage anywhere other than in the area shown on the approved plans.
14. With this permission and new planning conditions in place, assuming it is implemented, condition 5 of 06/00665/AS becomes obsolete. In light of this I consider the removal of this condition acceptable but only once planning permission 15/01468/AS is implemented and the condition relating to external storage that is attached to it comes in to force. This can in itself be controlled by condition.

15. Given the above I do not consider that what is proposed would result in any unacceptable visual harm to the countryside and surrounding landscape.

Impact upon Residential Amenity

16. The application as originally submitted proposed commencement of working at 5am. This resulted in considerable objection from local residents and the Parish Council. These concerns were shared by officers and the applicant advised that the proposal would be unlikely to be supported. As a consequence the start time was amended to 7am. Following re-consultation with this revised start time no objections have been received.
17. The proposed change in the hours of operation means that work on site can start 1 hour earlier on Monday-Saturday. The finish time on these days remains unaltered as does the prevention of working on Sundays and bank and public holidays. The hours proposed by the applicant would correspond with the working hours permitted on the new steel fabrication building recently granted under application 15/01468/AS. In respect of the new building it is proposed that once constructed the majority of metal fabrication on site will take place within it. This will result in a significant reduction in noise on the site. It is not uncommon for businesses to have a 7am start time and Environmental Health considers this to be reasonable and raise no objection subject to condition. Unit 4 is restricted to B1 use only (and adjoins The Old Barn) and it is not proposed to change the use of this unit. The operations and fabrication of steel is only permitted to take place within Units 1-3 and the new workshop granted under application 15/01468/AS.
18. The external lights face out onto the main yard. With no lights directly facing the adjacent neighbouring dwellings, I do not consider that any significant or unacceptable harm to residents is caused by these lights. Further a condition is proposed requiring the lights to be off when the buildings are not in use and restricting any further lighting.
19. The external storage has no impact on residential amenity and will remain to be controlled until the implementation of 15/01468/AS which in itself shows clearly defined storage areas.
20. In light of the above and subject to conditions I do not consider that the variations proposed to the original conditions would cause harm the residential amenity of nearby residents.

Human Rights Issues

21. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Working with the applicant

22. In accordance with paragraphs 186 and 187 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner as explained in the note to the applicant included in the recommendation below.

Conclusion

23. Balancing the issues identified above, the proposal is considered to be compliant with the criteria of local development plan policies. No overriding harm is caused to the visual amenity of the locality or the residential amenity of nearby residents. The proposal is therefore considered to be acceptable and in accordance with the Development Plan as a whole. I therefore recommend the application is permitted.

Recommendation

Permit

Subject to the following conditions and notes:

1. The area allocated as vehicle parking, loading, off-loading and turning space, shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting those Orders), shall be carried out on that area of land or in such a position as to preclude its use.

Reason: Development without provision of adequate accommodation for the parking, loading, off-loading and turning of vehicles is likely to lead to such activities inconvenient to other road users

2. The premises/site shall not be used for any purpose other than that specifically applied for, whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any subsequent Order revoking or re-enacting that Order, or whether the alternative use is permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking or re-enacting that Order.

Reason: In order to preserve the amenity of the locality

3. No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times 07.00 to 18.00 hours Monday - Friday, 07.00 to 12.00 hours Saturday, nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interest of residential amenity

4. Industrial processing shall only take place in the building(s) identified on the approved plans.

Reason: In order to preserve the visual character of the property and the amenity of the surrounding area.

5. No external lighting other than that shown on the approved lighting plan shall be installed on the site without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and the amenity of adjoining residents

6. The external lights hereby approved shall be fitted with a timer control system to ensure that the lights are switched off between the hours of 6pm and 7am.

Reason: In the interests of visual amenity and the amenity of adjoining residents.

7. All doors, windows and openings on the building shall be kept shut whilst industrial processes are taking place.

Reason: In the interest of residential amenity

8. The rating level of the noise emitted from the site shall not exceed the existing background noise level expressed as LA90 (10 mins) by 3dB at any time when measured at the nearest noise sensitive premises. The measurements

and assessment shall be made according to BS4142:2014 or any superseding standard.

Reason: To ensure against noise disturbance to the surrounding area of occupiers of adjoining properties

9. The sound insulation undertaken to the buildings as set out in the Agent's letter dated 13 April 2006 and which accompanied the planning application shall be maintained and retained in perpetuity.

Reason: In the interest of residential amenity

10. There shall be no external storage on the site other than within a building until the lawful implementation of planning application 15/01468/AS or any subsequent application when the external storage shall be strictly limited to that shown on the approved plans for that application.

Reason: In the interest of visual amenity

Note to Applicant

1. Working with the Applicant

Working with the Applicant

In accordance with paragraphs 186 and 187 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance

- was provided with pre-application advice,

- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 16/00629/AS.

Contact Officer: Laura Payne

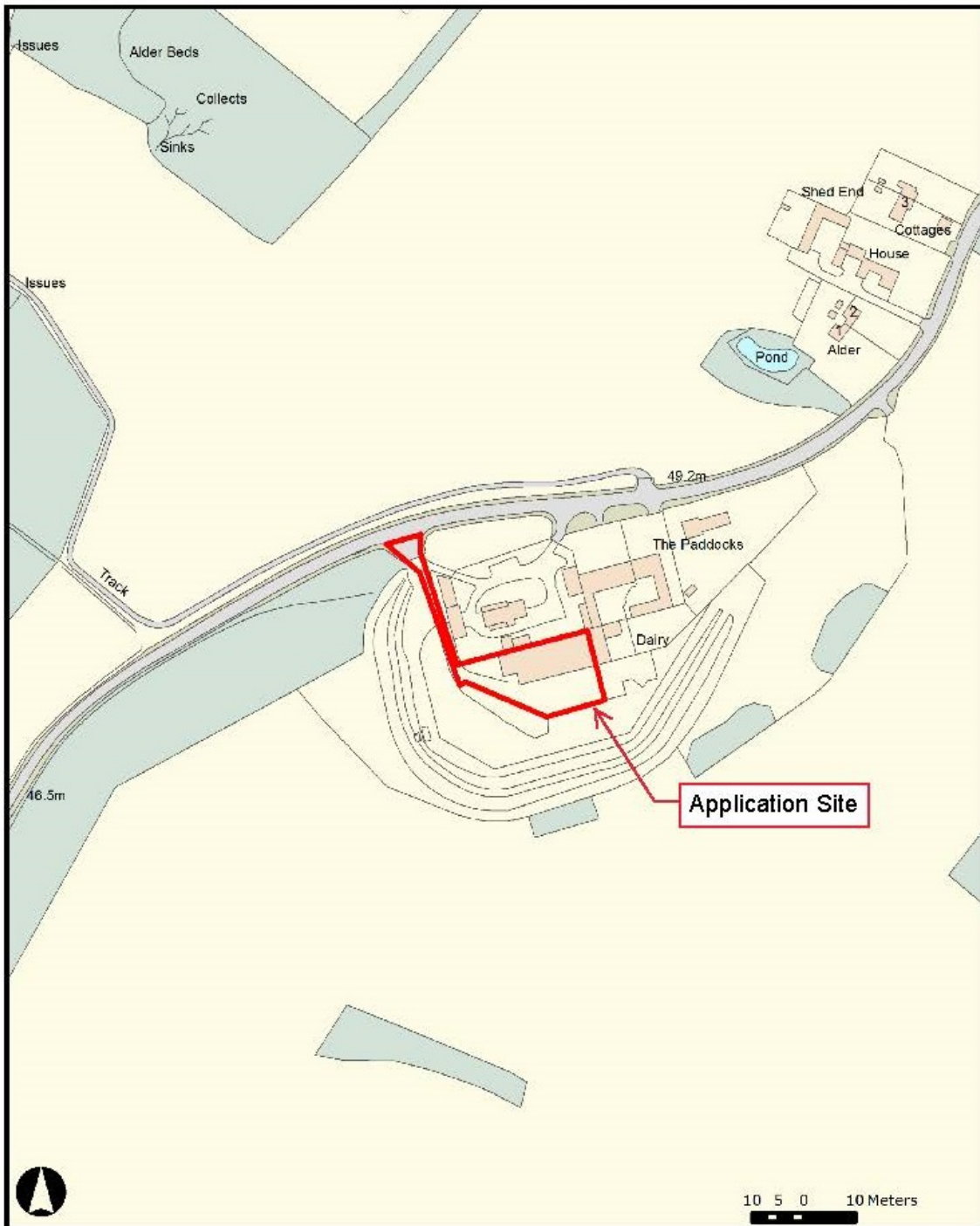
Telephone: (01233) 330738

Email: laura.payne@ashford.gov.uk

Annex 1



Ashford Borough Council



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