

Planning Committee

Wednesday the 17th April 2024 at 6.30pm



ASHFORD
BOROUGH COUNCIL

Update Report for the Committee

The following notes and attached papers will be referred to at the meeting and will provide updated information to the Committee to reflect changes in circumstances and officer advice since the reports on the agenda were prepared

1. Requests for Deferral/Withdrawal

6. Schedule of Applications
 - (a) **PA 2023/0715 - Chilmington Green, Land to west of Chilmington Green Road, Ashford, Kent**

Proposed construction of a Wastewater Treatment Plant, associated landscaping, and proposed vehicular access from Chilmington Green Road.

Member's Site Visit

Members' undertook a site visit on Thursday 11 April 2024. I have set out below a response to queries and questions raised by Member's during their visit.

The role of the Environment Agency (EA) Permitting regime.

In order to legally operate the waste water treatment plant (WwTP), the developer would need to obtain a permit from the EA to discharge treated waste water into the river Beult. This Permitting regime is separate to the planning application process. Granting planning permission does not infer that the EA will subsequently grant a permit. The Local Planning Authority (LPA) does not have to wait until an applicant has an EA permit before determining a planning application of this nature.

The EA Permitting regime determines if the intended operations can be managed on an ongoing basis to prevent or minimise pollution. An LPA should determine whether a development is an acceptable use of the land. EA guidance states that LPA's should be confident that a development would not result in unacceptable risks from pollution when considering whether the development would be an appropriate use of land and not focus on controlling pollution where that can be controlled by other pollution regulations, such as through the Environmental Permitting Regulations.

The National Planning Policy Framework (NPPF) makes it clear that it is not the role of the planning system to duplicate matters governed under separate legislation. Paragraph 188 states:

“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively”.

In their separate assessment of a permit application, the EA will consider the impact of the proposed waste water discharge on water quality, in both the water body that the treated waste water will flow immediately into and the wider river catchment, including the SSSI. The EA would seek the views of Natural England on the Permit application. A permit would only be granted if the applicant is able to demonstrate to the EA's satisfaction that there are sufficient flows within the ditches and that detrimental impacts to water quality would not occur.

It should be noted that, Severn Trent Connect (STC) would submit the Permit application for the WwTP to the EA and not the developer (Hodson Developments). STC are an experienced company in making such submissions, I note that STC have recently submitted a Permit application for the WwTP granted outline planning permission as part of the nearby Kingsnorth Green development.

Odour and Noise Impacts

The homes closest to the WwTP site are located approx. 250m to the south east of the proposed WwTP site, on the southern side of Tally Ho Road and the eastern side of Magpie Hall Road. The applicant has submitted a report demonstrating that odour impacts would be confined to within the WwTP compound boundary. In addition, following concerns raised by Member's at December's Planning Committee meeting, the applicant has proposed that the sludge tank would be covered.

In addition, with the proposed noise mitigation measures in place, comprising the provision of acoustic shrouds around the air blowers and the provision of a bund around the perimeter of the site, the applicant's noise report concludes that noise from the WwTP is not expected to result in noise disturbance to existing residents.

I note that the Planning Inspector, in his recent decision to grant outline planning permission for the WwTP proposed as part of the Kingsnorth Green development, did not raise any concerns about a distance of circa 110 metres between the proposed WwTP and the nearest houses.

Visual Impact

The treatment tanks (the tallest part of the proposed WwTP) would be 5.63 metres high to the top of the tanks and 7.10 metres high to the top of the gantries. The bund would be 1.80 metres high and the shrub planting on top of the bund would range from 40cm to 3.5 metres in height when planted. This is expected to grow to between 4.0 metres and 6.0 metres in height

above the bund within 10-15 years. The Leylandii Cypress trees proposed on the northern and southern sides of the bund would be 5.0 metres high from the base of the bund when planted. The Leylandii would not have an adverse ecological or biodiversity impact and is the most beneficial species for screening purposes.

For comparison the bund surrounding the Southern Water Pumping station site that Members viewed during their site visit is 2.25 metres high.

Members asked whether the tanks could be sunk into the ground or widened so that they would be lower in height, but provide the same capacity. The applicant has sought advice from the manufacturer, Te-Tech, who have advised that it is not possible to sink the tanks into the ground because it is necessary to retain access around the base of the tanks for operation and maintenance, for example to access valves, instruments and pumps at low level. Te-Tech have also advised that it would be possible to reduce the height of the tanks from 5.63 metres to 4.23 metres, this is the lowest practical height Te-tech advise is achievable.

Background to the Proposed Development

Southern Water has built a pumping station that is of sufficient size to deal with the waste water from the whole of the Chilmington Green development and all the infrastructure to take the waste water to the Bybrook treatment works is in place. However, due to the requirement to achieve nutrient neutrality, in response to advice issued by Natural England, the waste water from the residential parts of the Chilmington Green development not yet granted reserved matters approval cannot discharge via the Southern Water pumping station and into the treatment works at Bybrook, as originally intended when outline planning permission for the Chilmington Green development was granted. The WwTP is proposed to enable housing on land parcels, not yet granted reserved matters approval, at the Chilmington Green development, to achieve nutrient neutrality.

The applicant envisages that the proposed WwTP would only need to treat waste water for a temporary period of time, due to the upgrades planned by Southern Water at the Bybrook treatment works. However, the planning application is not for a temporary development that could be removed within an agreed period of time, therefore Members must consider the application as if the development is a permanent facility.

Without the proposed WwTP, development at the Chilmington Green site, Ashford's largest housing site allocation, would not be able to progress beyond the existing reserve matters approvals (763 homes in total, including those already built/under construction) for the foreseeable future. In addition to resultant reduced housing delivery for the borough, this would also lead to a lack of associated infrastructure and services being brought forward to serve the residents of the Chilmington Green development.

Consultations

A letter was received from Natural England (NE) on 15 April 2024. NE state in their letter that their 'no objection' response to this application dated 12 September 2023 was issued in error and advise that the advice contained in their letter dated 15 April 2024 replaces their previous 'no objection' response. NE consider that the proposed development "*could have potential significant effects on the River Beult Site of Special Scientific Interest (SSSI)*" and advise that they require "*further information in order to determine the significance of these impacts and the scope for mitigation.*" A copy of NE's letter is appended to this Update Report.

We are currently considering the implications of NE's letter and will update members at the Committee meeting.

Further Representations received from the Community

Since drafting my Report, a further seven objections have been received from residents who have previously objected to the application, including the 'Stubbs Cross Action Group' and the 'Shadoxhurst Drainage Team'. The majority of the objections received reiterate concerns previously raised (refer to paragraphs 69–162 of the December Planning Committee report) and state that the amendments made and additional information submitted by the applicant do not address their concerns. I have summarised the new points raised below:

- The information submitted by the applicant, including the monitoring of flow within the river Beult is not correct, is misleading and un-evidenced. A full year of flow monitoring, as required by the EA, has not been undertaken and monitoring has only been undertaken during the autumn and winter months when seasonal rain intensifies. There is no flow during the summer months. Residents have evidence that there is no flow for most of the year and even when there is water in the ditch there is no flow.
- Te-Tech have stated that technical solutions exist to deal with higher standards that the EA may impose through the Permitting regime - why are these higher standards not being built into the design now and details of the higher environmental standards clarified?
- Why has no reference been made or data been provided from plant already in operation, such as the Southern Water Te-Tech plant at Hawhurst?
- No formal consultation appears to have been undertaken with any of the local non-statutory bodies and other interested parties, including farmers and landowners involved in the protection of the river Beult catchment.

Objections have also been received from three residents who are members of the Upper Beult Farmer Cluster and one resident who is a member of the Marden Farmer Cluster - all who have not raised objections previously.

Objections have also been received from the South East Rivers Trust and Kent Wildlife Trust. All raise concerns about the impact of the treated waste water from the proposed WwTP on water quality and biodiversity in the river Beult, which farmers in collaboration with Kent Wildlife Trust and Southern Water are working to try to improve via nature based solutions, with significant investment of time and money.

A representation has also been received from CPRE Kent who comment that the proposed WwTP is a temporary solution until the Southern Water pumping station adjacent to the application site can be used in 2030, the date announced as the “end of the Stodmarsh constraint”. They comment that the proposal needs to be operated to best practice, with full monitoring and control of effluent and operation should be compatible with the management of the downstream Beult SSSI, as well as on going nature recovery activities closer to the proposed effluent discharge point in the catchment. This compatibility should be required via a planning condition.

(b) PA/2023/0277 - Hothfield Service Station, Maidstone Road, Hothfield, TN26 1AP

Single-storey side extension to accommodate 'food to go' (Sui Generis).

None.

(c) PA/2023/2108 - Land Between Primrose Cottage & 1 Buffalo Cottages, Bethersden Road, Smarden , Ashford, TN27 8QX

Erection of two detached two-storey dwellings with new vehicular access from Bethersden Road, associated parking area, and landscaping.

Since the publication of the committee report, the applicant's arboricultural consultant has submitted a statement that provides a more holistic view of the impact of the development on the protected Oak trees. In particular, the report clarifies that the RPA has been correctly plotted despite the adjacent road and that the incursion into the RPA of T1 is minimal and would not harm the tree.

Officers have considered this report and have concluded that there will be little prospect of harm to T1 and T2 in terms of incursion into their RPAs. However, officers consider that the 3m crown reduction proposed for these trees is unacceptable.

On this basis, it is proposed that Reason 3 (refusal) be amended to delete the reference to the RPAs. It should now read as follows:

3. The proposed development would have an unacceptable impact on the protected Oak Tree T1 without justification for the 3m crown reduction. Furthermore, given the proximity of the development to high protected trees, the development as proposed would result in calls for the reduction of these trees.

A substantial statement has been submitted by the applicant, Simon and Katrina Hoyle, following the publication of the committee report. This is summarised below:

- The applicants would occupy the Plot 2 self-build plot; the Plot 1 self-build plot would be occupied by their friends;
- The applicant points out that they currently live a further 250m along Bethersden Road from the village than these proposals;
- The applicants currently walk and cycle to and from the village, support local services etc.
- The applicant's own business is based in the village;
- The proposed homes are highly sustainable – the ambition is to achieve what is believed to be the first A-rated SAP assessment in Smarden. The development would achieve high insulation levels and incorporate both air source heat pump and PV panels with battery storage;
- The proposal would improve site biodiversity including wild ponds which would also actively manage surface water runoff. New native hedgerow planting, bat boxes and biodiverse roofing to garden sheds is proposed;
- The site is a redundant undesignated piece of land consisting of two land registry titles, registered in 1938 which reflect the previous intended use for development in the late 1930/40s when other parcels of land were developed, including Buffalo Cottages, Peniel and Melville;
- More recently the addition of Oak View, c. 100m further out from the village, was approved by the ABC Planning committee
- The land is bound on all sides by residential development so lacks connectivity for biodiversity purposes. It is too small for use as a paddock so has no other purpose. Remains of storage units litter the site as do other building materials dumped over the years;
- There are limited pavements and no street lighting in Smarden (Dark Skies Policy);
- Excellent network of PROW in the vicinity which could be utilised as an alternative route to the village – photographs are included in the statement demonstrating this point;
- Bus stop at the junction between Bethersden Road and Cage Lane;
- Distance from site to village confines boundary (via Bethersden Road and Cage Lane) is 890m (moving time 7.56 min);
- Bethersden Road – aprox. 4.8m wide - is suitable for two lanes of traffic;
- Distance from site to the village (The Flying Horse) via PROW is 1000m (moving time 10.49min);
- Distance from site to furthest village services (community store and Charter Hall) via PROW is 1160m (12.6 min moving time);
- PROW are popular well-kept paths and tracks (Officer comment: such paths are often not easy to use in winter when the unmade paths are muddy);
- The statement refers to previous planning proposals, which have been approved, either by officers or at Planning Committee, where distances from the village are not dissimilar eg. Peniel and Oak View (Officer comment: App Ref: 19/00941/AS Demolition of the existing dwelling, detached garage and storage buildings and replacement with 2 no. detached dwellings with associated landscaping and parking. Officers recommended refusal on a number of grounds including its remoteness from village confines. It was approved at Committee);

- Also, The Yard, a development of 4 houses was granted permission by the officers – later increased to 8 units despite being on 60mph road (Officer comment: This relates to App Ref: 18/01231/AS. In this case, officers took the view that whilst the site was not well located to the village, it would make good use of a brownfield site and provide visual and ecological enhancements);
- Also, Barnwood, a development of 50 house, out of scale, context and density with the rest of the village was approved due to a shortage in housing supply despite local objection (Officer comment: Approved on appeal);
- Current housing land supply is between 3.5 – 4.5 years (Officer comment: see planning report);
- Disagrees with case officer's claim that Smarden only has limited facilities and services (Officer comment: This is the case relative to the larger settlements – Ashford, Tenterden Charing and Wye - in the borough);
- Case officer incorrectly notes there is no footpath beyond the bridge (Officer comment: accepted, although no footpath at the bridge itself);
- The case officer has incorrectly applied NPPF para 84 which is reserved for isolated dwellings, despite acknowledging elsewhere that the proposals are not isolated (Officer comment: This proposal is isolated from services and facilities and therefore para 84 (and the second part of Policy HOU5) are applicable. It is not isolated in as much as there are other dwellings nearby.)
- Para 139 states great weight should be given to: 'outstanding and innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit with the overall form and layout of their surroundings' (Officer comment: This para is not applicable since whilst the proposals are not unattractive and have some admirable sustainability features, the proposals are not 'outstanding and innovative' and the applicant has not made a case on this basis);
- The development is not sporadic as described by the case officer – rather infill plot within ribbon development;
- Following amendments, KCC Highways are now happy with the proposals. (Officer comment: This is not the case. Whilst KCC is now satisfied with the access arrangements in highway safety terms, an in-principle objection still stands due to the remote rural location of the site.)

(d) 21/01862/AS - Land at the Street and North of Court Lodge, The Street, Brabourne, Kent

Conversion and change of use of the ground floor to distillery use (Sui Generis).

Point of clarification

The words "(if members consider appropriate)" should be deleted from the recommendation, as details of the rooflight blinds are considered necessary in the interests of the visual amenity of the locality. Therefore, the recommendation of the report should read as follows:

Permit

Subject to all Conditions and Notes listed in the Minutes of the Meeting of 17 August 2022, with the addition of conditions recommended in paragraphs 21 and 23 of this report restricting the times of operational use and seeking details regarding automatic blinds to the existing roof lights of the building.

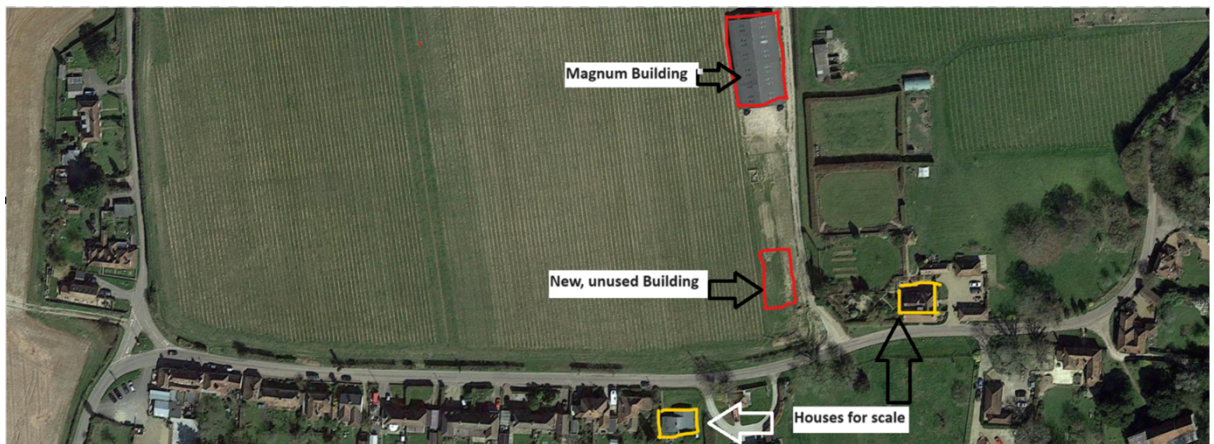
(with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or approve changes to the planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit).

Additional Representations / Consultation Responses

Since the Planning Report Agenda was written and published, further correspondence has been received from one of the objectors who previously objected to the proposal when it last went to Planning Committee in August 2022. The objector has stated that a number of errors were made with the labelling associated with photos of the area around the site which went to the previous Planning Committee in August 2022.

(Planning officer comments: the officer presentation to the Planning Committee in August 2022 was factually annotated and correct).

The objector has also requested that the following photographs be provided for Members before the meeting.



(Photo 1: Google Earth photo from early spring 2021 - demonstrating the size and location of the building relative to those around it)



(Photo 2: A photo taken from the road above the vineyard showing the building in the context of properties below)



(Photo 3: View of the building after dark from properties in The Street)

(Planning officer comments: with regard to the additional photographs (see above), I would note that as highlighted within the associated Planning Committee reports the existing building is lawful, and this application relates

solely to the change of use of the ground floor of the building and would not alter the physical appearance of the building.

Photo 3 shows the current light spill from the existing agricultural building, where no controls exist in relation to the existing lighting either internally or externally. To address this potential issue and improve the situation for the locality in terms of reducing light spill, the current application would introduce conditions to reduce light spill from the proposal, including conditioning details of external lighting, introducing blinds to the building rooflights and restricting the hours of operation).

The objector has also made the following points in relation to the application, which they believe are material changes to the scheme which was previously considered by Members in August 2022.

- The appended 2022 report makes reference to a fledgling business venture, utilising produce from the farm for its production. However, the business is now well established from an alternative site.
- The business already has ten employees and offer contract distilling services of up to 30k bottles per month, all established since the original Planning Committee meeting.
- The objector queries the adequacy of parking provision for the business, especially if there are already 10 employees.
- The objector considers that the applicant's statement has now been superseded by their established business but no update has been included as to their intentions for the application site. The objector does not believe that there is a reason why the proposed site is required.

(Planning officer comments: the applicant has confirmed that whilst awaiting this current application to be determined they had to rent an alternate site to store their equipment they had purchased and to start contract distilling for other companies in order to earn some money. The applicant has confirmed that they would like to undertake the operations and business at the application site which Members had resolved to grant planning permission in August 2022. The current site where they have located in Aldington is not large enough or suitable for barrel storage for prestige spirits such as Whiskey. The applicant has confirmed that the current distillery operation employs 5 members of staff. I would note that the supporting documents associated with this application and the previous Planning Committee report highlighted that the intention of the business was to over time employ about 5 members of staff. Therefore, I believe that the proposal remains the same as that which was previously considered acceptable by Members in the August 2022 Planning Committee meeting.)

- The original report stated that 'the grain and the pomace (pulpy residue) produced from squashed grapes, following juice extraction for the winemaking would be produced by the wider farm thereby

avoiding transportation off site.' The objector considers this to be incorrect as Pomace is the byproduct of pressing grapes in a winery and there is no winery on site, with the nearest winery being over ten miles away and thus transportation would be required both off site and back again. The objector also believes that the grain cannot be utilised in distilling without being malted first and that requires even further transportation since they believe there are no malting facilities in Kent.

- The current business model is based largely around contract production, their raw materials are shipped in by whoever they are contract producing for.
- The objector considers that two deliveries a week is not equivalent to volumes of 30k bottles (or more) per month. In addition, this is movement away from the site. The objector believes that there will be more vehicle movements in out of the site daily. They are of the opinion that deliveries into the site would be far more numerous and the applicants would have no control over the nature of the delivery vehicles.
- The objector considers that the transport report commissioned by residents during the first stage of the application was ignored, including the analysis of the road width and distance from the main road network. The last two miles of the road have now been marked as unsuitable for HGVs but this is not addressed in the application.

(Planning officer comments: I would note that the application as originally submitted, includes a transport statement which does not raise any highway safety concerns. The scale and intensification of the proposal remains unchanged since the application previously considered and resolved to be approved by Members in August 2022).

- The volumes mentioned are not in line with their actual current production. The grain store at Penstock is not actually used for storing grain and has been up for sale, on and off, since 2022. The landowner has recently indicated that he has a buyer lined up for the entire site at Penstock, meaning any reliance on it being a relevant location for this application has also been superseded.
- The initial report was misleading in referring to tourist attraction given there was assurance in the application that there would be no visitor facility on site.

(Planning officer comments: I would note that the submitted plans do not show any retail elements or visitor facilities at the site).

- The objector raises the issue of why the building was required in the first place, if it became disused before it was used. They do not

consider the upper floor and the second building on the site are not suitable for access by tractors or other large vineyard equipment and neither are currently used. They raise the question of where the equipment listed on the original permitted development application will be stored.

- They also highlight that the existing outside security lighting is extremely bright.

(Planning officer comments: the applicant has confirmed that the existing agricultural farming machinery would be stored elsewhere within land / buildings owned by the existing farmer (site landowner). The issue of lighting at the premises would be addressed via the suggested conditions).

- Drainage at the site is an issue and no information has been provided with regard to the output of the biodigester. Furthermore, the drainage issue would be made worse if the proposed car park were hard surfaced.

(Planning officer comments: foul water drainage details are to be agreed with the LPA by way of a condition. Please see condition 10 of the minutes of the August 2022 Planning Committee meeting).

- Any potential changes in legislation.

Since the Planning Report Agenda was written and published, further correspondence has also been received from Brabourne Parish Council, which maintains its original objection to the proposal for the following reasons:

1. The business case presented in the officer reports (particularly the 2022 report) is not in the application papers or in any of the submitted documents, but is materially significant to this application. No viability information has been provided with regard to the business and the appropriateness of the location. Also no information has been provided with regard to local inputs and the local demand for outputs. Therefore, consultees have not had the opportunity to scrutinise that information and the LPA has not been able to accord the necessary weight to consultee's views on that information, which could lead to inaccuracies.

They consider that paragraph 11 of the 2022 Planning Committee report implies that both the pomace and the grain apparently produced on the adjoining farm would go straight from the farm to the neighbouring distillery for further processing. However, the Parish Council believe the grapes would have to be pressed at a winery first off the farm and the grain also malted off site before any such products could be used at the distillery. Therefore, they consider that

the synergy between the adjoining farm and the distillery may well have been overstated in the reports.

The Parish Council highlight that it is not to say that the proposed business cannot be appropriately evidenced. Rather, it is a question of ensuring that it is so evidenced to ensure that any decision made on the application is based on the correct information.

(Planning officer comments: the supporting document which the Parish Council refers to (reference WM/628/SS November 2021), was marked sensitive at the time of the last Planning Committee meeting. However, I consider it important to note that the most pertinent parts of this document were included within the previous August 2022 Planning Committee report. It is also important to note that the said document was made public, before the current supplementary report for this Committee was made publicised.

I also consider it important to re-iterate the fact that this is an application for the conversion of a lawful rural building, and not a new employment development in the countryside. Consequently, local plan policy does not require the proposal to justify its location within the countryside).

2. The LPA has not applied the relevant planning tests pertaining to AONBs. The Parish Council note that since the 2022 report was published, Section 245 of the Levelling Up and Regeneration Act replaces the old duty to 'have regard' to the statutory purposes of AONBs with a revised duty to 'seek to further the purpose of conserving and enhancing the natural beauty of the AONB'. They do not consider that the officer reports have correctly assessed whether the proposals would conserve and enhance (both are required) the landscape and scenic beauty of that AONB. The Parish Council agree with the previous objections of the AONB unit.

(Planning officer comments: I believe the most relevant national planning guidance is the NPPF 2023, which highlights in paragraph 182 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." As highlighted within the supplementary report, the changes to the NPPF in 2023 did not alter the guidance in relation to National Landscapes (formerly known as AONB's) from the guidance previously contained within the 2021 NPPF, which is what the application was previously considered against at the Planning Committee in August 2022).

3. The application of Policy EMP4 provides an obvious means of frustrating the clearly stated purpose of EMP5, thereby weakening the protection afforded to the Borough's countryside. The Parish Council consider that there is natural interaction in between policies EMP4 and EMP5, and the LPA'S approach of either EMP4 or EMP5 is too simplistic. The Parish Council do not agree that EMP4 is the correct policy to comply, but rather EMP5 would be the appropriate

policy for this scheme, which requires the 'essential need' of the proposal in the countryside to have been demonstrated.

They consider that the approach of converting of a newly built building under EMP4 is a method of 'sidestepping' the requirements of EMP5 in relation to new business premises within the countryside. They note that an agricultural prior approval was granted for the building. However, the Parish Council consider that with the lack of explanation for the loss of agricultural need for the ground floor of the building, the proposal should be considered as a new business premises in the countryside and therefore considered under policy EMP5.

(Planning officer comments: the application is for the conversion of part of a lawful rural building and therefore the proposal falls to be considered and assessed against policy EMP4 of the Local Plan. The Parish Council are incorrect in their assumption that policy EMP5 would be the correct policy to consider the proposal against, as this proposal is not introducing a new employment premises within the countryside, it is simply converting part of an existing building. Members previously considered the proposal complied with policy EMP4 and all other relevant local and national planning policies and guidance, and as stated in the supplementary report, I do not consider that there have been any material changes in circumstance to recommend an alternate finding).

(e) PA/2024/0116 - 2 Craythorne, Tenterden, TN30 6SD

First floor extension to create two storey dwelling.

None.

(f) PA/2024/0340 - Bennetts, 56 The Street, Appledore, TN26 2AE

External soil stack on the north elevation.

None.

(g) PA/2024/0356 - Bennetts, 56 The Street, Appledore, TN26 2AE

Addition of a new shower room within a bedroom, including a new external soil stack on the north elevation and extractor fan.

None.

Date: 15 April 2024
Our ref: 472536
Your ref: PA/2023/0715



Faye Tomlinson
Ashford Borough Council
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TN23 1PL

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BY EMAIL ONLY

T 0300 060 3900

Dear Faye Tomlinson,

Planning consultation: Proposed construction of a Wastewater Treatment Plant, associated landscaping, and proposed vehicular access from Chilmington Green Road.

Location: Chilmington Green, Land to west of Chilmington Green Road, Ashford, Kent.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on the River Beult Site of Special Scientific Interest (SSSI). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- Further detail of the applicant's consideration of both the Environmental Quality Standards (EQS) and Common Standards Monitoring Guidance (CSMG) targets for the River Beult SSSI in relation to the proposed effluent treatment standards.
- Further clarity as to how the environmental characteristics (i.e., seasonality) of, and downstream of the proposed discharged location have been considered. In particular, the sufficiency (relative to timescale and quality) of current river flow/water quality monitoring, and certainty of operational conclusions, such as treated effluent standards.
- Confirmation that any additional measures required in order to ensure that there will not be an adverse impact upon the SSSI have been secured by your authority.

Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained.

Natural England's further advice on designated sites/landscapes and advice on other issues is set out below.

It is acknowledged that Natural England previously provided a “No Objection” response to this application on the 12th September 2023 (our ref: 447377). However, it has since been brought to our attention that this response was issued in error and having reviewed the information available on the planning portal, we believe that there is currently insufficient information to conclude that there will not be an adverse impact upon the River Beult SSSI. We would therefore respectfully ask your Authority to replace our previous response from the 12th September 2023 (our ref: 447377) with the advice contained within this letter instead.

Further detail relating to the information that Natural England believes to be outstanding is detailed below.

Additional Information required

It is understood that the proposed Wastewater Treatment Works (WwTW) will discharge treated effluent associated with the Chilmington Green development into the catchment of the River Beult, in order to ensure that the development can avoid discharging into the Stodmarsh catchment (and therefore, be subject to nutrient neutrality). As part of our engagement with your Authority and the applicant for this development, Natural England have advised that any discharges into the River Beult SSSI will need to ensure that there will be no adverse impacts upon the site (your ref: 12/00400/AS, our ref: 422048, 10th March 2023).

In order to ensure that there would be no adverse impacts upon the site, we advised that both the Environmental Quality Standards (EQS) and Common Standards Monitoring Guidance (CSMG) targets will need to be met for the SSSI¹. Whilst it is recognised that some assessments of the potential impacts have been undertaken (Foul Drainage Strategy (March 2024) – Appendix Two. Technical Note), it is our opinion that there is insufficient certainty (and supporting narratives around how conclusions have been reached) to ascertain that the proposed WwTW and permit levels will be able to treat the effluent to a sufficiently high standard.

Water quality

As outlined above, Natural England previously provided the applicant with a copy of the Favourable Condition Table (FCT), detailing the relevant CSMG water quality targets for the River Beult SSSI. Whilst it is apparent that the treated effluent standards have been identified within the information submitted by the applicant, it is unclear as to how these targets have been directly considered against the targets for the SSSI. For example, the River Beult SSSI has site-specific targets for both “un-ionised ammonia” and “total reactive phosphorous” (rather than “ammonia” and “total phosphorous” as described within the submitted information), as well as siltation which does not appear to have been considered at all. Similarly, it is unclear as to how the EQS targets for the site have been considered against the proposed effluent targets for the site.

It is stated by the applicant that within the Foul Drainage Strategy (March 2024) – Appendix Two, that “depending on the flow in the River Beult, dilution and dispersion of the treated effluent from the WwTW will take place in the River Beult, further decreasing concentrations before reaching the SSSI at Hadmans Bridge”. Whilst we do not dispute the premise of potential dilution and dispersion occurring prior to entering the SSSI, it is unclear from the information provided as to how this has been modelled and robustly assessed. Furthermore, it is unclear as to whether any of the receiving ditches and/or watercourses within the catchment will be seasonally dry, and whether this will affect their ability to provide the necessary dilution and/or dispersion of the treated effluent.

Flow rates

Whilst we are satisfied that the proposed discharge volume (assuming a flow rate of 3L p/second, as detailed within the Foul Drainage Strategy) will not significantly alter river flow and exceed

¹ Natural England shared the CSMG targets directly with the applicant as part of our Discretionary Advice Service on the 15th December 2022. Should the applicant require an additional copy of these targets, we would be happy to share them with them directly.

parameters outside the acceptable levels of deviation as stated within the Monitoring Specification (MS) for the River Beult SSSI, it remains unclear as to whether the seasonal environmental changes and intermittent nature of flows downstream of the discharge site have been fully considered. It is stated within the Ashford Borough Council – Report of the Assistant Director Planning & Development Planning Committee 17 April 2024 that, “to date, five months of monitoring has been undertaken”. Natural England consider this to be insufficient to accurately and comprehensively determine the level of potential impact that the proposed discharge will have on environmental parameters, including flow and water quality downstream of the discharge location, and within the River Beult SSSI.

We would therefore advise that the applicant should, in the first instance, provide greater clarity as to how they believe that the baseline habitat characteristics (i.e., seasonality of the river and discharge location) have been sufficiently considered. Natural England would also advise that, at a minimum, a full years’ worth of water flow and level data should be considered within the calculations. This is to ensure that any seasonal changes, and in particular, periods of low rainfall and flow, are accurately represented and considered within this assessment.

Additional treatment measures

In light of our comments above, it is Natural England’s opinion, that there remains sufficient uncertainty as to whether the proposed WwTW can treat the discharged effluent to a sufficiently high standard in order to protect the River Beult SSSI from any adverse impacts, without the need for additional measures or treatment.

It is however noted that within Appendix Four of the Foul Drainage Strategy (letter from Corylus Ecology, 13th March 2024) that Severn Trent Connect (the proposed WwTW operator) “are able to confirm that there are process technologies available that will be able to respond to water quality limits that the Environment Agency may look to impose, should these be more stringent than the standards currently envisaged in the Te-Tech proposal”. However, as the Environment Agency’s permitting regime is a separate process to the determination of this planning application, Natural England would advise that following a robust assessment and consideration of the points outlined within this letter, additional measures may be required by the applicant in order to ensure that both the EQS and CSMG targets for the SSSI can be met. Should additional measures be required, we would advise that they should be clearly defined and secured as part of any planning permission granted by your authority in order to ensure that there will not be an adverse impact upon the River Beult SSSI.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England’s advice. You must also allow a further period of 21 days before the operation can commence.

Further general advice on the protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter please contact me at luke.hasler@naturalengland.org.uk.

Please consult us again once the information requested above, has been provided.

Yours sincerely

Luke Hasler
Sussex & Kent Area Team

Annex A – Natural England general advice

Protected Landscapes

Paragraph 182 of the [National Planning Policy Framework](#) (NPPF) requires great weight to be given to conserving and enhancing landscape and scenic beauty within Areas of Outstanding Natural Beauty (known as National Landscapes), National Parks, and the Broads and states that the scale and extent of development within all these areas should be limited. Paragraph 183 requires exceptional circumstances to be demonstrated to justify major development within a designated landscape and sets out criteria which should be applied in considering relevant development proposals. [Section 245](#) of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities (including local planning authorities) to seek to further the statutory purposes of a National Park, the Broads or an Area of Outstanding Natural Beauty in England in exercising their functions. This duty also applies to proposals outside the designated area but impacting on its natural beauty.

The local planning authority should carefully consider any impacts on the statutory purposes of protected landscapes and their settings in line with the NPPF, relevant development plan policies and the Section 245 duty. The relevant National Landscape Partnership or Conservation Board may be able to offer advice on the impacts of the proposal on the natural beauty of the area and the aims and objectives of the statutory management plan, as well as environmental enhancement opportunities. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to development and its capacity to accommodate proposed development.

Wider landscapes

Paragraph 180 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape and Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

Biodiversity duty

The local planning authority has a [duty](#) to conserve and enhance biodiversity as part of its decision making. Further information is available [here](#).

Designated nature conservation sites

Paragraphs 186-188 of the NPPF set out the principles for determining applications impacting on Sites of Special Scientific Interest (SSSI) and habitats sites. Both the direct and indirect impacts of the development should be considered. A Habitats Regulations Assessment is needed where there is a likely significant effect on a habitats site and Natural England must be consulted on '[appropriate assessments](#)'. Natural England must also be consulted where development is in or likely to affect a SSSI and provides advice on potential impacts on SSSIs either via [Impact Risk Zones](#) or as standard or bespoke consultation responses.

Protected Species

Natural England has produced [standing advice](#) to help planning authorities understand the impact of particular developments on protected species. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances. A protected species [licence](#) may be required in certain cases.

Local sites and priority habitats and species

The local planning authority should consider the impacts of the proposed development on any local wildlife or geodiversity site, in line with paragraphs 180, 181 and 185 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity to help nature's recovery. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies. Emerging [Local Nature Recovery Strategies](#) may also provide further useful information.

Annex A – Natural England general advice

Priority habitats and species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest on the Magic website or as Local Wildlife Sites. A list of priority habitats and species can be found on [Gov.uk](#).

Natural England does not routinely hold species data. Such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

Biodiversity and wider environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 180(d), 185 and 186. Major development (defined in the [NPPF glossary](#)) is required by law to deliver a biodiversity gain of at least 10% from 12 February 2024 and this requirement is expected to be extended to smaller scale development in spring 2024. For nationally significant infrastructure projects (NSIPs), it is anticipated that the requirement for biodiversity net gain will be implemented from 2025.

Further information on biodiversity net gain, including [draft Planning Practice Guidance](#), can be found [here](#).

The statutory [Biodiversity Metric](#) should be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites, the [Small Sites Metric](#) may be used. This is a simplified version of the [Biodiversity Metric](#) and is designed for use where certain criteria are met.

The mitigation hierarchy as set out in paragraph 186 of the NPPF should be followed to firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered.

Development also provides opportunities to secure wider biodiversity enhancements and environmental gains, as outlined in the NPPF (paragraphs 8, 74, 108, 124, 180, 181 and 186). Opportunities for enhancement might include incorporating features to support specific species within the design of new buildings such as swift or bat boxes or designing lighting to encourage wildlife.

Natural England's [Environmental Benefits from Nature tool](#) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside the [Biodiversity Metric](#) and is available as a beta test version.

Further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain can be found in government [Planning Practice Guidance for the natural environment](#).

Ancient woodland, ancient and veteran trees

The local planning authority should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 186 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 180 and 181). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#) Agricultural Land Classification information is available on the [Magic](#) website and the [Data.Gov.uk](#) website

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling, separate guidance on soil protection

Annex A – Natural England general advice

for site restoration and aftercare is available on [Gov.uk](https://www.gov.uk) website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying [Good Practice Guide for Handling Soils in Mineral Workings](#).

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Green Infrastructure

Natural England's [Green Infrastructure Framework](#) provides evidence-based advice and tools on how to design, deliver and manage green and blue infrastructure (GI). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the [15 Green Infrastructure Principles](#). The GI Standards can be used to inform the quality, quantity and type of GI to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority GI strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths, together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 104 and 180 of the NPPF highlight the importance of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Further information is set out in Planning Practice Guidance on the [natural environment](#)