

<b>Application Number</b>	21/00973/AS
<b>Location</b>	Greenluck Farm, Harris Lane, High Halden TN26 3HN
<b>Grid Reference</b>	
<b>Parish Council</b>	High Halden
<b>Ward</b>	Weald Central
<b>Application Description</b>	Creation of an access track
<b>Applicant</b>	Mr M Green
<b>Agent</b>	
<b>Site Area</b>	4.65 hectares

## Introduction

1. This application is reported to the Planning Committee at the request of the one of the Ward Members, Councillor Pickering.

## Site and Surroundings

2. The site (Greenluck Farm) lies outside the built confines of the village of High Halden. It is also outside a designated landscape area, but within land recorded as being part of the Low Weald Landscape Character Area. The site is part of an Ancient Woodland.
3. The farm holding measures approximately 4.65 hectares, with the western part populated by mature trees and the eastern part consisting of mainly of grassland. There are agricultural buildings to the south and north of the site under separate holdings. The farm is accessed from Harris Lane – which bounds the farm to the west.

## Proposal

4. The proposal under consideration seeks permission to create an access track – to connect the main access point off Harris Lane with the eastern part of the farm holding where several agricultural buildings are located. It is important to note that an unmade access track similar to the proposed configuration is already in place, but the applicant wishes to surface it with suitable materials

to prevent mud and hindrance to farm vehicles during the winter months. Details of the construction methods and surfacing of the proposed access have not been provided, but the access route would be approximately 4 metres wide and would terminate at the existing hedge line that separates the farmland from the grazing land on the eastern part of the site.



## Planning History

5. The following entries are relevant to the application;-

17/01529/AS: Proposed pig pens – Approved.

18/01551/AS: Access to field, erection of pole barn, cattle shed, chicken shed, aviary, shed for llamas, shed for sheep with surround fencing, shed for food, maintenance to pond – Undetermined.

## Consultations

**Ward Member(s): Councillor Alan Pickering** - The High Halden Parish Council is not happy with this application and should you be minded to approve it, I would like it 'Called In'.

**(Parish) Councillor Irmgard Pickering** – concurrence with the representations of the Parish Council, detailed below.

**High Halden Parish Council (Original Representation - Received on the 9<sup>th</sup> of August 2021):** The proposed 4m wide track crosses designated ancient woodland to reach open grassland field and the pig pens/livestock buildings.

Prior to this proposal a water pipe already excavated in 2018 and approved retrospectively could be utilized and adapted to reach the pens.

The report of the ABC Tree Preservation Officer is vital to avoid further potential damage to the ancient woodland from the new application, thus mitigating the impact.

Furthermore, the positioning of a caravan already in place in the open grassland field needs clarification from the Planning Officer to ensure whether appropriate and to its function.

**Further Representation Received on the 21<sup>st</sup> of September 2021:** Further to the comments submitted on the 9 August 2021 we wish to make it known that we have grave concerns regarding the proposed track. Residents living nearby have since sent their strong objections to you as well.

Any further concessions would add to the destruction of this designated land and the clear commitment of the NPPF and The Ashford Local Plan to safeguard such land.

The NPPF 2019 on page 51 on Habitats and biodiversity under para 175c states:

"Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (Special Area of Conservation or Ramsar site) and a suitable compensation strategy exists".

Cutting and dumping is already taking place on this designated land contravening the 2018 agreement. We can see no evidence of any animals but plenty of unsuitable rubble and neglect.

The Ashford Local Plan, adopted February 2019, also enforces the safeguarding of such land.

The Natural and Built Environmental Policy ENV1 Biodiversity states, page 268: Proposals should safeguard features of nature conservation interest and should include measures to retain, conserve and enhance habitats including BAP (Priority) habitats, and networks of ecological interest, including ancient woodland, water features, ditches, dykes and hedgerows as corridors and stepping stones for wildlife. Policy ENV5 Protecting Important Rural Features:

"All development in the rural areas of the Borough shall protect, and, where possible, enhance the following features:

a) Ancient woodland and semi-natural woodland,...."

These two important documents clearly state that ancient woodland should be protected.

The applicant for Greenluck Farm ignores these guidelines and appears to have little understanding of being in possession of a designated area with special needs.

The biodiversity would not be enhanced with keeping pigs as by their nature they would further damage the wood flora and insect habitat. Furthermore, the existing and planned pens are in any case too close to residential properties under current regulations.

The planned track would also introduce more hardcore/cement further eroding and damaging the designated land.

We express our strongest objections to allowing the building of such a track.

The owners should be forced to remove all dumped materials, cars etc. from the land within a given time and should put the land back to an appropriate condition for fauna and flora to recover.

The ancient woodland is the only access to the open grassland field at the rear and we consider this unsuitable for such a purpose.

**Natural England:** No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Sites of Special Scientific Interest - Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Ancient Woodland - Natural England advises that the proposal as presented has the potential to adversely affect woodland classified on the Ancient Woodland Inventory. Natural England refers you to our Standing Advice on ancient woodland.

Priority Habitat - The consultation documents indicate that this development includes an area of priority habitat as listed on Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006.

**KCC PROW:** no PRoW appear to be affected so we would not make any comments on this application.

**ABC Tree Officer:** I am aware, the track construction needs more detail and must be no-dig. In principle, I would not object, but in addition I would expect to see an arboricultural method statement to ensure that no harm may be caused to the trees.

Neighbours: Nine (9) neighbours notified and 7 responses received. The concerns and objection raised are summarised below:

- The site is ancient woodland and as such feel it could have a detrimental effect to the woodland and its wildlife etc;
- It is not at all clear as to the purpose of a new access track, it is our understanding that there is already a track in place which is used regularly by cars and trucks going in and out. We are also curious as to why it needs to be 4 meters in width, what is the purpose of this and what is it intended to be used for?
- Noise and smell nuisance;
- Several breaches of planning control taking place on the farm;
- Proposal conflicts with several policies in the Local Plan;
- Damage and loss to protected trees; and
- These fields are not part of any farm. It is land that has been used by the family as a dumping ground and motocross track.

## **Planning Policy**

### **Government Guidance/Development Plan Policy/SPG/Other**

6. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019), Boughton Aluph & Eastwell Neighbourhood Plan, and the Kent Minerals and Waste Local Plan (2016).
7. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
8. The relevant policies in the Local Plan relating to the consideration and assessment of this application are as follows:-
9. SP1 – Strategic Objectives  
SP6 – Promoting High Quality Design  
ENV1 – Biodiversity  
ENV3a – Landscape Character and Design  
ENV5 – Protecting Important Rural Features

## **Supplementary Planning Guidance/Documents**

10. Sustainable Design SPD  
Sustainable Drainage SPD 2010  
Landscape Character Assessment SPD 2011

## **Government Guidance**

### **National Planning Policy Framework (NPPF) 2021**

11. 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 NPPF. The NPPF states that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-
  4. Decision-making
  11. Making effective use of land
  12. Achieving well-designed places
  15. Conserving and enhancing the natural environment

### **National Planning Policy Guidance (NPPG)**

12. In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:
  - Design
  - Determining a planning application
  - Ancient woodland, ancient trees and veteran trees: protecting them from development

## **Assessment**

13. It should be noted that an unmade access track is already in place, meandering through the mature trees on the western part of the farm holding. The proposed access track is of similar alignment and configuration but requires permission because of the operational aspects in terms of changing the surfacing materials to a more durable component to overcome the mud

and hindrance to vehicle movements experienced during the winter months according to the applicants.

### Principle of the Development

14. Policy ENV5 (Protecting Important Rural Features) of the Local Plan states that all development in the rural areas of the Borough shall protect and, where possible enhance the following features:

- a) Ancient woodland and semi-natural woodland;
- b) River corridors and tributaries;
- c) Rural lanes which have a landscape, nature conservation or historic importance;
- d) Public rights of way; and,
- e) Other local historic or landscape features that help to distinguish the character of the local area.

15. Paragraph 180(c) of the NPPF is also material to the assessment and determination of this application. This requires development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) to be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. These exceptional cases are clarified in the Natural England's and Forestry Commission's Guide to assessing development proposals affecting ancient woodlands.

16. It is advised that planning officers and others may wish to use this 'Assessment Guide' when making a comprehensive assessment of the potential effects of a development on ancient woodland and veteran trees when referring to the standing advice.

17. Some of the assessment criteria and the responses are detailed below:

Is the site of the ancient woodland the only possible place for this proposal? Does it have to be on the ancient woodland site (i.e. is it location dependent) or can it go anywhere else? **The proposed access is for the farm's benefit and cannot be located elsewhere.**

Will there be damage to the Root Protection Area of the woodland or individual trees? **The Tree Officer has raised no 'in principle' objection to the proposal subject to there being a no-dig. In addition, there is an expectation for an arboricultural method statement will be submitted to ensure that no harm may be caused to the trees. This will be required through the imposition of a pre-commencement condition.**

Has a survey for protected species been included in the application? **Whilst there are a number of ponds around the farm, none of these is likely to be adversely affected by the proposal.**

Does the development have the potential to affect the woodland through changes to air quality or to ground water (through pollutants or changes in hydrology)? If so, has an assessment been carried out and appropriate mitigation proposed? **No.**

Will access to the woodland increase? **There would not be a material increase in access or traffic generation because there would be no intensification of use.**

18. In relation to policy ENV5, there are no river corridors and tributaries on the application site. Neither are there rural lanes with landscape, nature conservation or historic importance. The adjacent PROWs are not adversely affected. In the light of the foregoing, it is considered that, on balance, the proposed development is acceptable in principle subject to satisfactory arboricultural assessment and construction details that provide adequate safeguard for the mature trees.

### **Visual and Residential Amenities**

19. Subject to the use of surfacing materials that are considered appropriate to the rural setting, the proposal would not be harmful to the rural landscape setting in compliance with policy ENV3a. It is considered that the proposed access would not necessarily translate to more intensive activities related to the agricultural enterprise. In the circumstance, it is not expected that the proposal would harm the living conditions of residential neighbours.

### **Human Rights Issues**

20. I have 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).

### **Conclusion**

21. In light of the foregoing, it is considered that the proposed development complies with the relevant Development Plan policies and the provisions in the national guidance. It is therefore recommended that planning permission



be granted, subject to the imposition of appropriate safeguarding pre-commencement conditions.

## Recommendation

### Permit

Subject to the following Conditions and Notes:

#### Conditions

1. Standard Time Condition
2. Compliance with The Approved Plans
3. Full Landscaping Survey & Arboricultural Assessment
4. Materials to be Approved
5. Full Details of Construction and Excavation
6. Biodiversity Enhancement

#### Informatives

##### 1. Working with the Applicant

In accordance with paragraph 38 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,
- In this instance
- the applicant/agent was updated of any issues after the initial site visit,
- was provided with pre-application advice,
- The applicant was provided the opportunity to submit amendments to the scheme/ address issues.

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

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent

for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

### **Background Papers**

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://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 21/00973/AS)

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